

City of Carmel

Common Council

Special Meeting

June 7, 2006

5:00 P.M.

COMMON COUNCIL MEETING AGENDA

WEDNESDAY, JUNE 7, 2006 – 5:00 P.M.
COUNCIL CHAMBERS/CITY HALL/ONE CIVIC SQUARE

MEETING CALLED TO ORDER

1. RECOGNITION OF PERSONS WHO WISH TO ADDRESS THE COUNCIL
2. COUNCIL, MAYORAL AND CLERK-TREASURER COMMENTS/OBSERVATIONS
3. **NEW BUSINESS**
 - a. **First Reading of Ordinance D-1812-06**; An Ordinance of the Common Council of the City of Carmel, Indiana, Approving the Asset Purchase Agreement by and between the City of Carmel, Hamilton County, Indiana, and the Consolidated City of Indianapolis, Marion County, Indiana, and its Department of Waterworks; Sponsor: Councilor Sharp.
4. **ANNOUNCEMENTS**
5. **EXECUTION OF DOCUMENTS**
6. **ADJOURNMENT**

ORDINANCE D-1812-06

**AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF CARMEL,
INDIANA APPROVING THE ASSET PURCHASE AGREEMENT BY AND BETWEEN
THE CITY OF CARMEL, HAMILTON COUNTY, INDIANA, AND THE
CONSOLIDATED CITY OF INDIANAPOLIS, MARION COUNTY, INDIANA, AND ITS
DEPARTMENT OF WATERWORKS**

WHEREAS, the City of Carmel, Hamilton County, Indiana (the “City”) is governed by the Common Council (the “Council”);

WHEREAS, pursuant to Indiana Code §§ 8-1.5 *et seq.*, the City owns, operates, manages and controls a water utility;

WHEREAS, pursuant to Indiana Code §§ 36-9-2-14 and -18, the City is authorized to regulate the furnishing of water to the public inside and within four (4) miles outside its corporate limits;

WHEREAS, pursuant to Indiana Code §§ 36-9-2-15 and -18, the City is authorized to regulate the furnishing of utility service to the public inside and within four (4) miles outside its corporate limits;

WHEREAS, the General Assembly has clearly articulated and affirmatively expressed its intention that Indiana municipalities have the right to regulate the furnishing of water utility service within their corporate boundaries, but also, as a foreseeable result of such authority, the right to regulate the furnishing of water utility service in unincorporated areas within four (4) miles of their corporate boundaries;

WHEREAS, all of Clay Township is located within four (4) miles of the City’s existing corporate limits;

WHEREAS, the Council has heretofore adopted Resolution No. CC-12-26-01-01, which authorized the Mayor and the Director of Utilities to investigate and negotiate the acquisition of certain water utility assets owned by the Consolidated City of Indianapolis, Marion County, Indiana and its Department of Waterworks (collectively referred to herein as, “Indianapolis”), and used in the provision of water utility service to customers located within Clay Township, Hamilton County, Indiana (“Clay Township”) and inside the corporate limits of the City (the “Carmel Assets”), which assets are defined in the Asset Purchase Agreement attached hereto as Exhibit A;

WHEREAS, on March 15, 2002, the City entered into an agreement with Indianapolis, wherein Indianapolis agreed to sell and the City agreed to purchase the Carmel Assets;

1 **WHEREAS**, on November 3, 2005, the City and Indianapolis entered into a Memo of
2 Understanding, wherein the City and Indianapolis agreed to a purchase price for the Carmel
3 Assets and to the general terms and conditions upon which the Carmel Assets will be transferred
4 from Indianapolis to the City;

5
6 **WHEREAS**, the purchase of the Carmel Assets will be documented by the execution of
7 a certain purchase agreement (the "Asset Purchase Agreement"), by and between Indianapolis
8 and the City, in the substantially final form attached hereto as Exhibit A; and

9
10 **WHEREAS**, this Council desires to authorize the execution of such form of the Asset
11 Purchase Agreement and related actions thereto in order to permit the City to purchase the
12 Carmel Assets.

13
14 **NOW, THEREFORE**, be it ordained by the Common Council of the City of Carmel,
15 Hamilton County, Indiana, as follows:

16
17 Section 1. The Asset Purchase Agreement, in the substantially final form attached
18 hereto as Exhibit A, is hereby authorized and approved. The Mayor is authorized to approve
19 non-substantial changes in form or substance to the Asset Purchase Agreement as may be
20 necessary or appropriate to accomplish the purposes of this Ordinance, with any such approval to
21 be conclusively evidenced by the authorized execution of such Asset Purchase Agreement.

22
23 Section 2. Each of the Mayor, the Council President and the Clerk-Treasurer, and
24 any other previously legally authorized officer, employee or agent of the City is hereby
25 authorized and directed, for and on behalf of the City, to execute and deliver any certificate,
26 instrument or other document and to take any and all action as such person determines to be
27 necessary or appropriate to accomplish the purchase of the Carmel Assets, such determination to
28 be conclusively evidenced by such person's execution of such certificate, instrument or other
29 document or such person's taking of such action.

30
31 Section 3. Each and every action heretofore taken to acquire the Carmel Assets,
32 including but not limited to the March 15, 2002 Agreement, the November 3, 2005 Memo of
33 Understanding, and all other negotiations are hereby ratified and each of the Mayor, the Council
34 President and the Clerk-Treasurer, and any other previously legally authorized officer, employee
35 or agent of the City is hereby authorized and directed, for and on behalf of the City, to execute
36 and deliver any certificate, instrument or other document and to take any and all action as such
37 person determines to be necessary or appropriate to dismiss all outstanding actions concerning
38 the Carmel assets, including but not limited to Indiana Utility Regulatory Commission Cause No.
39 42725, Marion County Superior Court Cause No. 49D07-0409-PL-001764, and Indiana Court of
40 Appeals Cause No. 93A02-0503-EX-194, and to withdraw the Notice of Tort Claim the City
41 filed against the Consolidated City of Indianapolis on or about March 18, 2005.

42
43 Section 4. On and after the date of the closing of the transaction contemplated by this
44 Ordinance, consistent with the grant of authority set forth in Indiana Code §§ 36-9-2-14, -15 and
45 -18, the City hereby regulates the furnishing of water to require that all retail water utility service

1 within Clay Township, shall be furnished by the City, and that no other provider of water utility
2 service shall furnish retail water utility service in Clay Township.
3

4 Section 5. This Ordinance shall be in full force and effect from and after its passage
5 and signing by the Mayor.
6

7 **PASSED** by the Common Council of the City of Carmel, Indiana this ____ day of
8 _____, 2006, by a vote of _____ ayes and _____ nays.
9

1 **COMMON COUNCIL FOR THE CITY OF CARMEL, INDIANA**

2
3
4 _____
5 Presiding Officer

_____ Joseph C. Griffiths

6
7
8 Richard L. Sharp, President Pro Tempore

_____ Kevin Kirby

9
10
11 _____
12 Ronald E. Carter

_____ Brian D. Mayo

13
14
15 _____
16 Fredrick J. Glaser

_____ Mark Rattermann

17
18
19 ATTEST:

20
21 _____
22 Diana L. Cordray, Clerk-Treasurer

23
24
25 Presented by me to the Mayor of the City of Carmel, Indiana this ____ day of
26 _____, 2006, at _____. M.

27
28
29 _____
30 Diana L. Cordray, IAMC, Clerk-Treasurer

31
32 Approved by me, Mayor of the City of Carmel, Indiana, this ____ day of _____,
33 2006, at _____. M.

34
35
36 _____
37 James Brainard, Mayor

38
39 ATTEST:

40 _____
41 Diana L. Cordray, Clerk-Treasurer

42 Prepared by: Randolph L. Seger
43 BINGHAM MCHALE LLP
44 2700 Market Tower
45 10 West Market Street
46 Indianapolis, Indiana 46204

47 904810.53307//1012962.2

ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (this “Agreement”), made and entered into by and among the Consolidated City of Indianapolis, Marion County, Indiana (the “City”), the Department of Waterworks of the Consolidated City of Indianapolis, Marion County, Indiana (the “Department of Waterworks”) (the City and the Department of Waterworks, each a “Seller” and, collectively, “Sellers”), and the City of Carmel, Hamilton County, Indiana (“Buyer”),

WITNESSETH THAT:

WHEREAS, Sellers own, among other assets, (i) certain water lines, mains, hydrants, valves and meters used to provide water utility service to certain customers located within Clay Township, Hamilton County, Indiana, which water lines, mains, hydrants, valves and meters are located in Clay township and are generally depicted in blue and yellow on the map attached hereto as Exhibit A (such area of Clay Township identified on Exhibit A, as the “Acquired Service Area”) (all water lines, mains, hydrants, valves and meters used to provide water utility service to customers in the Acquired Service Area, except those specifically depicted in yellow on Exhibit A, are defined as the “Water Line Assets”; the customers served by the Department of Waterworks in the Acquired Service Area are defined as the “Carmel Customers”), and (ii) certain easements and rights-of-way relating to the Water Line Assets, which easements and rights-of-way are described on Exhibit B hereto (such identified easements and rights-of-way, collectively, the “Easements”); and

WHEREAS, on November 3, 2005, the parties hereto entered into a handwritten Memorandum of Understanding (the “MOU”) regarding the sale of the Acquired Assets, as defined in **Section 1**, from Sellers to Buyer, and

WHEREAS, the parties intend this Agreement to be the binding definitive agreement contemplated by the MOU for the sale and conveyance of the Acquired Assets, as defined in **Section 1**, from Sellers to Buyer;

NOW, THEREFORE, in consideration of the premises, and for other good and valuable consideration, the receipt and sufficiency of which hereby are acknowledged, the parties hereby agree as follows:

1. Sale of Assets.

(a) Sellers hereby sell, transfer, assign, and convey to Buyer, all of Sellers’ right, title and interest in, to and under all of the following assets (collectively referred to as the “Acquired Assets”) for the purchase price specified in **Section 4**:

- (1) The Water Line Assets;
- (2) The Easements;

- (3) The Carmel Customers, including all customer lists, billing records, customer deposits, customer advances and other materials related to the Carmel Customers;
 - (4) All right of way permits and any other permits, licenses, and approvals necessary for the operation of the Acquired Assets, including, without limitation, those permits, licenses, and certificates listed in Schedule 1(a)(4), (the “Permits”), to the extent assignable;
 - (5) All area rate project contracts (the “Rule 12(P) Contracts”) and all developer contracts relating to the operation of the Acquired Assets as specifically listed or described in **Section 3**; and
 - (6) Any existing maps showing valve locations and hydrant locations, maintenance records, and all other records pertaining to the Acquired Assets in digital and hardcopy format where available.
- (b) Concurrently herewith, the City will execute and deliver one or more assignments of the Easements for recordation in the Office of the Recorder of Hamilton County, Indiana (the costs of which shall be paid by Buyer), in the form attached hereto as Exhibit C (the “Easement Assignments”).
 - (c) Seller agrees it is transferring the Acquired Assets located in the Acquired Service Area to Buyer and that the Buyer shall have the right to provide water service in the Acquired Service Area, and Seller shall be precluded from providing either retail or wholesale water service (except as provided herein to Buyer) in the Acquired Service Area so long as the Buyer or its successors or assigns is providing water service in the Acquired Service Area. Buyer shall be precluded from providing water service in areas, not including the Acquired Service Area, served by Sellers as of the Closing (as defined in **Section 8(a)** hereof).
 - (d) Upon the Closing of this Agreement as provided herein, the Intergovernmental Agreement between the Department of Waterworks and Buyer (executed by Buyer on March 26, 2002) shall be considered amended to insert at the end of the last sentence of Section 2.a. the following text situated within the quotation marks: “only to the extent consistent with the Asset Purchase Agreement dated _____, 2006, by and between the parties hereto, among other parties (i.e., the Waterworks shall not provide retail Water Services to residents of Clay Township, but shall only provide wholesale Water Services to the Unit as agreed to in said Asset Purchase Agreement, and the Waterworks shall be permitted to own property within the Unit’s territory necessary to conduct its water utility operations).”

2. Assumption of Certain Liabilities.

- (a) Except for the Contracts, as set forth in Schedule 3, obligations to the Carmel Customers arising from customer deposits and customer advances, and for such other liabilities as may be specifically assumed by Buyer elsewhere in this Agreement (the Contracts and other such liabilities are collectively referred to as the “Assumed Liabilities”), Buyer does not assume, and shall not in any manner become responsible or liable for, any debts, obligations or liabilities of Sellers, whether known or unknown, fixed, contingent or otherwise, arising out of or resulting from Sellers’ ownership or operation of the Acquired Assets prior to the date hereof.
 - (b) As of the date hereof, Buyer shall execute and deliver to Sellers an assumption agreement, in substantially the form of the assumption agreement attached hereto as Exhibit D (the “Assumption Agreement”), pursuant to which Buyer shall assume the Assumed Liabilities. Upon execution and delivery of the Assumption Agreement, Buyer shall irrevocably and unconditionally waive and release the Sellers from all Assumed Liabilities.
 - (c) Buyer shall not assume any liabilities, commitments or obligations (contingent or absolute and whether or not determinable as of the Closing) of the Sellers, except for the Assumed Liabilities as expressly provided for above, whether such liabilities or obligations relate to payment, performance, or otherwise, and all liabilities, commitments or obligations not expressly transferred to Buyer hereunder as Assumed Liabilities are being retained by the Sellers (the “Retained Liabilities”). Sellers hereby irrevocably and unconditionally waive and release Buyer from all Retained Liabilities, including any liabilities created or which arise by statute or common law.
3. Assignment of Contracts. The Department of Waterworks hereby assigns to Buyer all of its right, title, benefit, privilege and interest in, to and under, and all of its burdens, obligations and liabilities in connection with, each of the contracts and agreements (including but not limited to developer contracts, extension agreements and the Rule 12(P) Contracts) described on Schedule 3 hereto (collectively, the “Contracts”). Buyer hereby accepts the foregoing assignment of the Contracts and assumes, and agrees to timely and completely observe and perform, all of the obligations of the Department of Waterworks under the Contracts to be observed, performed, paid or discharged after the date hereof. On each annual anniversary of the Closing, Buyer agrees to remit to the Department of Waterworks any fees and charges collected by Buyer in the previous twelve (12) month period pursuant to Rule 12(P) Contracts that were fully executed by depositors or owners as of the Closing, such remittances to not include fees and charges received pursuant to counterparts of Rule 12(P) Contracts executed by Potential Customers or Subsequent Participants (as those terms are defined in the Rule 12(P) Contracts) after the Closing. Sellers agree to execute a Memorandum of Assignment evidencing the assignment set forth in this **Section 3** for Contracts (or memoranda or other evidences thereof) that have been recorded, which Sellers agree that Buyer may record after the Closing.
4. Purchase Price.

- (a) In consideration of Sellers selling the Acquired Assets to Buyer, and for the other covenants of Sellers set forth herein, Buyer shall pay the Department of Waterworks an aggregate of \$36.2 million in the dollar amounts shown on the payment schedule attached hereto as Schedule 4(a).
 - (b) All payments required by this **Section 4** shall be made in currency of the United States of America and by wire transfer of immediately available funds to an account or accounts designated in writing by the Department of Waterworks (or in such other manner as Sellers may direct from time to time in writing). Buyer shall give notice to the Financial Manager of the Department of Waterworks or his designee of the date and amount of transfer before each transfer made pursuant to Schedule 4(a).
 - (c) If any payment required by this **Section 4** is due on a day other than a business day, Buyer shall make such payment on the business day immediately preceding the date on which such payment was otherwise due.
- 5. Separation of Water Line Assets. Buyer will (at its sole liability, cost and expense) separate the Water Line Assets from Sellers' other water utility assets, and connect the Water Line Assets to the other water utility assets of Buyer, in accordance with the schedule attached hereto as Exhibit E (the "Takedown Schedule").
- 6. Transition of Carmel Customers.
 - (a) In accordance with its normal billing practices and procedures, the Department of Waterworks shall invoice the Carmel Customers for water utility service provided through the date of this Agreement. From and after the date of this Agreement, Buyer shall be responsible for invoicing the Carmel Customers and providing water utility services to the Carmel Customers. Buyer shall promptly cause all water meters of the Carmel Customers to be read and shall inform the Department of Waterworks in writing as to the water usage of the Carmel Customers through the date of this Agreement to enable the Department of Waterworks to timely invoice the Carmel Customers for the water used during such period.
 - (b) Sellers shall bear all costs and collect all revenue received from the Carmel Customers for water utility service provided to the Carmel Customers up to and including the date hereof, and all such revenue billed and collected shall be Sellers'. Accounts receivable with respect to Carmel Customers for water utility service provided up to and including the date of Closing shall be Sellers. Buyer shall bear all costs and collect all revenue received from the Carmel Customers for water utility service provided to the Carmel Customers after the date hereof and all such revenue billed and collected shall be Buyers'.
 - (c) To enable Buyer to provide water utility service to the Carmel Customers while Buyer completes the separation of the Water Line Assets, as contemplated by

Section 5, the Department of Waterworks agrees to sell water that has been treated by the Department of Waterworks' water treatment plants ("Finished Water") to Buyer through the meters of the Carmel Customers ("Delivery Points") until the necessary infrastructure to connect the Carmel Customers to Buyer's existing waterworks is complete. The Department of Waterworks shall provide Finished Water to Buyer on the following terms:

- (1) The Department of Waterworks will use reasonable efforts to operate and maintain supply and pumping facilities within its systems so as to provide Finished Water to the Delivery Points at reasonable pressure. For purposes of this Agreement, reasonable pressure shall be the pressure maintainable under normal operating conditions and which meets established fire flow standards, as such have been maintained at the Delivery Points for the one year period immediately preceding the date of this Agreement.
- (2) The Department of Waterworks agrees to continue to supply water in the ordinary course as provided in its management contract with Veolia Water Indianapolis, LLC.
- (3) Until the earlier of (i) the expiration of five (5) years from the date of this Agreement or (ii) the completion of the Takedown Schedule, in the event of an extended shortage of Finished Water or the supply of Finished Water available to Buyer is otherwise diminished over an extended period of time, the amount of Finished Water delivered to Buyer through the Delivery Points shall not be reduced or diminished by a ratio or proportion greater than that of the reduction of the amounts supplied to Sellers' other customers.
- (d) Buyer shall perform monthly meter readings with respect to Finished Water supplied by the Department of Waterworks hereunder and on the first day of each calendar month notify the Financial Manager of the Department of Waterworks or his designee of the aggregate volume of Finished Water used by the Carmel Customers during the billing period. Buyer shall keep records of the monthly Finished Water meter readings for a period of five (5) years from the date of this Agreement, and Sellers or a designee of the Department of Waterworks shall have the right to audit such records upon five (5) days' written notice.
- (e) Based on the finished water volumes reported by Buyer to the Department of Waterworks under **Section 6(d)** above, the Department of Waterworks shall invoice Buyer on a monthly basis in accordance with the Department of Waterworks' tariffed rates and charges in effect on the date hereof and Buyer shall pay or protest in writing each such bill submitted to it within seventeen (17) days of receipt of same; provided, however, except as provided in **Sections 6(f) and 6(g)** below, Buyer shall receive a dollar-for-dollar credit for the cost of such water against any payments owed to the Department of Waterworks under such

monthly bill. Attached as Schedule 6(e) is a sample computation of methodology used to compute the monthly billing and credit.

- (f) Buyer shall receive credit against payments owed to the Department of Waterworks under **Section 6(e)** for water provided by the Department of Waterworks during the first sixty (60) months following the Closing of the Agreement beginning with the month in which the Agreement closes.
- (g) Notwithstanding the foregoing, Buyer shall not receive any credit against payments owed to the Department of Waterworks under **Section 6(e)**: (i) for water provided by the Department of Waterworks after the date on which the Water Line Assets by which the Carmel Customers are served were required by the Takedown Schedule to have been separated from the other water utility assets of Sellers, (ii) in excess of \$1.8 million for any twelve month period with the first twelve month period beginning the first calendar month after the date of this Agreement, or (iii) after the fifth (5th) anniversary of the date of this Agreement, but credits earned prior to the fifth (5th) anniversary date will still apply.
- (h) Buyer agrees that after the expiration of the fifth (5th) anniversary of this Agreement, no more than 500 residential Carmel Customers will require Finished Water produced by the Department of Waterworks and after the expiration of the tenth (10th) anniversary of this Agreement, no Carmel Customers will require Finished Water produced by the Department of Waterworks.

7. Construction of Water Mains.

- (a) On or before the date twelve (12) months after the date of the Closing, Buyer (at its sole liability, cost and expense) shall complete construction of the water mains identified on Exhibit A hereto, to enable Sellers to pump water through their water utility system without the continued use of any of the Water Line Assets; provided, however, that for the new 16-inch water main to be constructed by Buyer along 106th Street and between Towne Road and Ditch Road, Buyer shall complete construction of such 16-inch water main by December 31, 2007 or the time that Buyer needs the existing 12-inch main to transition Carmel Customers, whichever occurs first. Such water mains shall be constructed in accordance with (i) good utility practice and the specifications of the Department of Waterworks, (ii) shall be subject to a right of inspection by the Department of Waterworks or its designees, and (iii) the connections with the Water Line Assets shall be subject to the approval of the Department of Waterworks or its designees, which approval shall not unreasonably be withheld.
- (b) Except as set forth in **Section 7(a)** above, Sellers and Buyer shall each pay their own costs for any needed improvements to their respective water systems.

8. Closing.

- (a) Subject to the terms and conditions of this Agreement, the closing of the sale and purchase of the Acquired Assets (the "Closing") shall take place at 10:00 A.M., Indianapolis time contemporaneously with the signing of this Agreement, on a date mutually satisfactory to Buyer and Sellers, at the offices of Bingham McHale LLP, 2700 Market Tower, 10 West Market Street, Indianapolis, IN 46204.
- (b) Immediately following the Closing, Buyer will take over the Acquired Assets, including the Carmel Customers, and will be responsible for any and all maintenance of the Acquired Assets from the date hereof forward.
- (c) On the signing of this Agreement, the Sellers shall deliver to Buyer:
 - (1) Bill of Sale in the form attached hereto and made a part hereof as Exhibit E and other instruments of assignment and transfer of real and personal property constituting the Acquired Assets, executed by Sellers;
 - (2) The consents to transfer all transferable and assignable Contracts and Permits to the extent specifically required hereunder;
 - (3) All agreements and other documents required by this Agreement; and
 - (4) All such other instruments of conveyance as shall, in the reasonable opinion of Buyer and its counsel be necessary to transfer to Buyer the Acquired Assets in accordance with this Agreement, duly executed and acknowledged by Sellers, if necessary, and in recordable form.
- (d) On the signing of this Agreement, the Buyer will deliver to the Sellers:
 - (1) Wire transfer of immediately available funds in the amount of \$350,000, the installment of the Purchase Price due and payable on the signing;
 - (2) The Assumption Agreement, duly executed by Buyer; and
 - (3) All such other instruments of assumption as shall, in the reasonable opinion of Sellers and their counsel, be necessary for Buyer to assume the Assumed Liabilities in accordance with this Agreement.

9. Warranties and Representations.

- (a) Sellers represent and warrant to Buyer that:
 - (1) City is a municipal corporation duly organized and validly existing under the laws of the State of Indiana and Sellers have no reason to believe that they do not have all requisite authority to (i) own and operate the Acquired

Assets; (ii) enter into and deliver this Agreement; and (iii) consummate the transactions contemplated by this Agreement.

- (2) Sellers have no reason to believe that they do not have full power and authority to execute, deliver, and perform this Agreement and all other agreements and instruments to be executed in connection herewith (such other agreements and instruments being hereinafter referred to collectively as the “Transaction Documents”), to which they are parties. The execution, delivery, and performance by Sellers of this Agreement and the Transaction Documents to which Sellers are a party have been duly authorized by all necessary action on their part. This Agreement has been duly executed and delivered by Sellers. This Agreement is a legal, valid, and binding obligation of Sellers, enforceable against them in accordance with its terms, except to the extent that injunctive or other equitable relief is within the discretion of a court and subject to the valid exercise of the constitutional powers of the Sellers, the State of Indiana, or any political subdivision or agency, commission or department thereof, and the United States of America. Upon execution and delivery of each of the Transaction Documents, as of the Closing Date, each of the Transaction Documents to which Sellers are a party will constitute the legal, valid and binding obligations of Sellers, enforceable against them in accordance with their respective terms, except to the extent that injunctive or other equitable relief is within the discretion of a court; and subject to the valid exercise of the constitutional powers of the Sellers, the State of Indiana, or any political subdivision or agency, commission or department thereof, and the United States of America.
- (3) The execution, delivery, and performance of this Agreement and the Transaction Documents by Sellers does not, and the consummation of the transactions contemplated hereby and thereby will not, except as set forth on Schedule 9(a)(3), violate, conflict with, result in a breach of, or constitute a default (or an event which would with the passage of time or the giving of notice, or both, constitute a default) under, or result in or permit the termination, modification, acceleration, or cancellation of, or result in the action or imposition of any lien on the Acquired Assets, or give others any interests or rights in the Acquired Assets under (i) any indenture, mortgage, loan or credit agreement, license, instrument, lease, contract, plan, permit, authorization, or other agreement or commitment, oral or written, to which Sellers are a party, or by which any of their assets or properties may be bound or affected, except for such violations, conflicts, breaches, terminations, modifications, accelerations, cancellations, interests, or rights which, individually or in the aggregate, do not constitute a change or effect (or series of related changes or effects) that has or is reasonably likely to have a material adverse change in or effect upon the Acquired Assets (such a change or effect or series of related changes or effects, a “Material Adverse Effect”) or their ability to

perform their obligations under this Agreement and the Transaction Documents, or (ii) any judgment, injunction, writ, award, decree, restriction, ruling, or order of any court, arbitrator, or Authority or any applicable ordinance, rule or regulation to which Sellers are subject other than those violations and conflicts which individually or in the aggregate do not have a Material Adverse Effect on their ability to perform their obligations under this Agreement and the Transaction Documents.

- (4) Except as disclosed on Schedule 9(a)(4), Sellers possess and are in compliance with all Permits and licenses necessary for the operation of the Acquired Assets under all applicable laws, rules, regulations, ordinances and codes, except to the extent that any failure to possess, or to comply with, any Permit, laws, rules, regulations or orders does not, individually or in the aggregate, have a Material Adverse Effect. Except as disclosed in Schedule 9(a)(4), the Acquired Assets are operated by Sellers in compliance with all applicable laws, zoning, building and similar laws, rules, regulations, ordinances, codes, judgments and orders, except for such failures to comply, which individually or in the aggregate do not have a Material Adverse Effect. All Permits of Sellers relating to the operation of the Acquired Assets are in full force and effect, other than those the failure of which to be in full force and effect individually or in the aggregate do not have a Material Adverse Effect. There are no proceedings pending or, to the best of the Sellers' knowledge, threatened that seek the revocation, cancellation, suspension or any adverse modification of any such Permits presently possessed by Sellers other than those revocations, cancellations, suspensions or modifications that individually or in the aggregate do not have a Material Adverse Effect.
- (5) Except as set forth on Schedule 9(a)(5), no outstanding notice, citation, summons or order has been issued, no outstanding complaint has been filed, no outstanding penalty has been assessed and no investigation or review is pending or, to the knowledge of the Sellers, threatened, by any federal, state, local or foreign governmental or regulatory entity (or any department, agency, authority or political subdivision thereof) (an "Authority"), or other individual, corporation, partnership, limited liability company, association, Authority, trust or other entity or organization (a "Person") with respect to any alleged (i) violation by Sellers relating to the operation of the Acquired Assets of any law, ordinance, rule, regulation, code or order of any Authority; or (ii) failure by Sellers to have any Permit required in connection with the operation of the Acquired Assets or otherwise applicable to the Acquired Assets, except, in each case, where such violations or failures, individually or in the aggregate, do not have a Material Adverse Effect.
- (6) No consent, approval or authorization of, or registration or filing with, any Person (governmental or private) is required in connection with the

execution, delivery and performance by Sellers of this Agreement, the Transaction Documents, or the consummation of the transactions contemplated hereby or thereby by Seller, including in connection with the assignment of the Contracts and Permits contemplated hereby, except (i) as specified on Schedule 9(a)(6) and (ii) for such other consents, approvals, authorizations, registrations or filings the failure of which to obtain or make would not individually or in the aggregate have a Material Adverse Effect.

- (7) Sellers own their respective Acquired Assets free and clear of all liens, except as is otherwise alleged or as may otherwise be established in the lawsuit captioned *The Consolidated City of Indianapolis v. NiSource Inc. and IWC Resources Corp.*, Cause No. 49D13-0504-PL-16416, pending in Marion Superior Court No. 13 (the “Pending Litigation”), and the status of which is set out on Schedule 9(a)(7).
- (8) The Water Line Assets are located on real property that is within the area covered by the Easements.
- (9) Sellers have no liabilities with respect to the operation of the Acquired Assets that would constitute Assumed Liabilities, either direct or indirect, matured or unmatured or absolute, contingent or otherwise, except:
 - (i) Liabilities disclosed on Schedule 9(a)(9) or any of the other Schedules to this Agreement, provided it is reasonably apparent from such Schedule that an item disclosed thereon is a liability and the nature thereof;
 - (ii) Liabilities arising in the ordinary course of business under any Contract; and
 - (iii) Those other liabilities, which individually and in the aggregate, would not have a Material Adverse Effect.
- (10) **THE ACQUIRED ASSETS ARE BEING SOLD TO BUYER “AS-IS, WHERE-IS” AND WITH ALL FAULTS. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, SELLERS DO NOT MAKE ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, AT LAW OR EQUITY, IN RESPECT OF OR OTHERWISE IN ANY WAY RELATING TO THE ACQUIRED ASSETS, INCLUDING, WITHOUT LIMITATIONS, WITH RESPECT TO MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY SUCH REPRESENTATION OR WARRANTY IS HEREBY EXPRESSLY DISCLAIMED.**

- (b) Buyer represents and warrants to Sellers as follows:

- (1) Buyer has full power and authority to execute, deliver and perform this Agreement and the other Transaction Documents to which it is a party. The execution, delivery and performance by Buyer of this Agreement and the Transaction Documents to which Buyer is a party have been duly authorized by all necessary action on its part. This Agreement has been duly executed and delivered by Buyer. This Agreement is a legal, valid and binding obligation of Buyer, enforceable against it in accordance with its terms, except to the extent that injunctive or other equitable relief is within the discretion of a court and subject to the valid exercise of the constitutional powers of the Buyer, the State of Indiana, or any political subdivision or agency, commission or department thereof, and the United States of America. Upon execution and delivery of each of the Transaction Documents, as of the Closing Date, each of the Transaction Documents to which Buyer is a party will constitute the legal, valid and binding obligations of Buyer, enforceable against it in accordance with its respective terms, except to the extent that injunctive or other equitable relief is within the discretion of a court; and subject to the valid exercise of the constitutional powers of the Buyer, the State of Indiana, or any political subdivision or agency, commission or department thereof, and the United States of America.
- (2) The execution, delivery, and performance of this Agreement and the Transaction Documents by Buyer does not, and the consummation of the transactions contemplated hereby and thereby will not, except as set forth on Schedule 9(b)(2), violate, conflict with, result in a breach of, or constitute a default (or an event which would with the passage of time or the giving of notice, or both, constitute a default) under, or result in or permit the termination, modification, acceleration, or cancellation of (i) any indenture, mortgage, loan or credit agreement, license, instrument, lease, contract, plan, permit, authorization, or other agreement or commitment, oral or written, to which Buyer is a party, or by which any of its assets or properties may be bound or affected, except for such violations, conflicts, breaches, terminations, modifications, accelerations, cancellations, interests or rights which, individually or in the aggregate, do not have a Material Adverse Effect on its ability to perform its obligations under this Agreement and the Transaction Documents, or (ii) any judgment, injunction, writ, award, decree, restriction, ruling, or order of any court, arbitrator or Authority or any applicable ordinance, rule or regulation to which Buyer is subject, other than those violations and conflicts which, individually or in the aggregate, do not have a material adverse effect on its ability to perform its obligations under this Agreement and the Transaction Documents.
- (3) No consent, approval or authorization of, or registration or filing with, any Person (governmental or private) is required in connection with the execution, delivery and performance by Buyer of this Agreement, the other Transaction Documents, or the consummation of the transactions

contemplated hereby or thereby by Buyer except (i) as specified on Schedule 9(b)(3) and (ii) for such consents, approvals, authorizations, registrations or filings, the failure to obtain or make would not individually or in the aggregate have a Material Adverse Effect on its ability to perform its obligation under this Agreement and the Transaction Documents.

10. Other matters.

- (a) Sellers shall vigorously pursue the resolution of the Pending Litigation as defined in **Section 9(a)(7)**, and agree to represent Buyer's interests equally with their own in pursuit of the Pending Litigation.
- (b) Contemporaneously with the signing of this Agreement, the parties shall execute the Mutual Release and Agreement to Dismiss Pending Proceedings in the form attached hereto as Exhibit G.
- (c) The Buyer acknowledges that Sellers have financed and refinanced a portion of the costs of the Acquired Assets from bonds (the "IWC Bonds") the interest on which is exempt from federal income tax under Section 103 of the Internal Revenue Code of 1986 (the "Code"). To preserve the federal tax exempt status of the interest on the IWC Bonds, the Department of Waterworks has made certain covenants and agreements regarding the use of the Acquired Assets. The Sellers agree to apply each installment payment of the Purchase Price paid by the Buyer in a manner that, but for the installment nature of payments under this Agreement, such payments would be deemed disposition proceeds meeting the alternate use requirements of Treas. Reg. Section 1.141-12(e) (as so applied, "Alternate Use Assets"). Sellers shall provide Buyer with a certification in the form attached hereto as Schedule 10(c) on March 31, 2009, and each March 31st thereafter until March 31, 2027. In the event Buyer desires to sell the Acquired Assets when the IWC Bonds are outstanding, Buyer reserves the right to seek a private ruling request from the Internal Revenue Service to confirm that the acquisition of the Alternate Use Assets meets the alternate use requirements of Treas. Reg. Section 1.141-12(e) or will not otherwise cause the IWC Bonds to be treated as private activity bonds under § 141 of the Code (if so obtained, a "Favorable Ruling"). The Buyer, therefore, represents, covenants and agrees that until the earlier of when the IWC Bonds are no longer outstanding or a Favorable Ruling is obtained:
 - (1) The Acquired Assets will be available for use by members of the general public. Use by a member of the general public means use by natural persons not engaged in a trade or business. No person or entity other than the Buyer, or another state or local government unit will use the Acquired Assets other than as a member of the general public, if such use would be considered a private business use within the meaning of § 141 of the Code;

- (2) No person or entity other than the Buyer or another state or local government unit will own the Acquired Assets or will have an actual or beneficial use of such property pursuant to a lease, a management or incentive payment contract, arrangements such as take-or-pay or output contracts or any other type of arrangement that conveys other special legal entitlements and differentiates that person's or entity's use of such property from use by the general public, if such use would be considered a private business use within the meaning of § 141 of the Code; and
- (3) Any management agreement entered into by the Buyer with respect to the Acquired Assets shall comply with IRS Revenue Procedure 97-13, so that the agreement will not give rise to private business use under the Internal Revenue Code of 1986, as amended.

Buyer undertakes to notify the Financial Manager of the Department of Waterworks as soon as reasonably practicable after receipt of a Favorable Ruling.

- (d) Upon the terms and subject to the conditions set forth in this Agreement, each of the parties agrees to use commercially reasonable efforts to take, or cause to be taken, all actions, and to do, or cause to be done, and to assist and cooperate with the other party in doing, all things necessary, proper or advisable to consummate and make effective, in the most expeditious manner practicable, the sale and purchase and the other transactions contemplated by this Agreement, including, but not limited to:
 - (1) Cooperate with each other in determining whether filings are required to be made or consents are required to be obtained in any jurisdiction in connection with the consummation of the transactions contemplated by this Agreement, and in making or causing to be made any such filings promptly, and in seeking to obtain timely any such consents; and
 - (2) Advise the other party promptly if such party determines that any of its obligations hereunder will not be satisfied in a timely manner.
- (e) All press releases, notices to third parties, and all other public announcements concerning this Agreement or the transactions contemplated herein shall be planned and issued jointly by Buyer and Sellers, unless counsel to such party advises that such announcement or statement is required by law, in which case the parties shall make commercially reasonable efforts to consult with each other prior to such required announcement.
- (f) Buyer and Sellers, from time to time after the Closing, at Buyer's or Sellers' request, will execute, acknowledge, and deliver to the applicable person such other instruments of conveyance and transfer, information or records, and will take such other actions and execute such other documents, certifications, and further assurances as Buyer or Sellers, as the case may be, may reasonably require in order to transfer, in accordance with the terms and conditions of this Agreement, more effectively put Buyer more fully in possession of any or all of the Acquired Assets

and to enable Buyer to complete, perform, and discharge any of the Assumed Liabilities. Each party shall cooperate and deliver such instruments, records or information, and take such action as may be reasonably requested by the other party to carry out the provisions and purposes of this Agreement and the transactions contemplated hereby.

- (g) Buyer and Sellers shall cooperate and shall cause their respective officers, employees, agents, and representatives to cooperate to ensure the orderly transition of the Acquired Assets from Sellers to Buyer and to minimize the disruption to the operation of the Acquired Assets resulting from the transactions contemplated hereby. Sellers shall give Buyer and its representatives (including Buyer's accountants, consultants, counsel and, employees), upon 5 days' notice and during normal business hours, reasonable access to the properties, contracts, books, records, and affairs of Sellers to the extent relating to the Acquired Assets, and shall cause its officers, employees, agents and representatives to furnish to Buyer all documents, records and information (and copies thereof), to the extent relating to the Acquired Assets, as Buyer may reasonably request.
- (h) Sellers shall provide Buyer at Closing a copy of each Contract, and any other contract or agreement that concerns the Acquired Assets or operation thereof.
- (i) Sellers, on the one hand, and Buyer, on the other hand, shall cooperate fully with each other after the Closing so that (subject to any limitations that are reasonably required to preserve any applicable attorney-client privilege) each party has access to the business records, contracts and other information existing at the Closing Date and relating in any manner to the Acquired Assets or the Assumed Liabilities or the operation of the Acquired Assets (whether in the possession of Sellers or Buyer). In addition, so long as the Water Line Assets remain connected to Sellers' other water utility assets, Sellers and Buyer shall cooperate fully in connection with the provision of any information required to be reported to any governmental agency relating to operation of the Water Line Assets. No files, books or records existing at the Closing Date and relating in any manner to the ownership or operations of the Acquired Assets shall be destroyed by any party for a period of six (6) years after the Closing Date without giving the other party at least thirty (30) days prior written notice, during which time such other party shall have the right (subject to the provisions hereof) to examine and to remove any such files, books and records prior to their destruction. The access to files, books and records contemplated by this **Section 10(i)** shall be during normal business hours and upon not less than two (2) business days prior written request, shall be subject to such reasonable limitations as the party having custody or control thereof may impose to preserve the confidentiality of information contained therein, and shall not extend to material subject to a claim of privilege unless expressly waived by the party entitled to claim the same.

- (j) All representations, warranties, covenants and agreements contained in this Agreement or the Transaction Documents shall survive (and not be affected in any respect by) the Closing.
- (k) Buyer has a right to accelerate payment of the Purchase Price, which accelerated payment by the Buyer will be accomplished by the Buyer paying a predetermined amount on the day immediately following a regularly scheduled payment, as set forth on Schedule 10(k), which represents the estimated present value of the then remaining outstanding installments.

11. Miscellaneous.

- (a) This Agreement supersedes all prior agreements, whether written or oral, between the parties with respect to its subject matter (including the MOU) and constitutes a complete and exclusive statement of the terms of the agreement between the parties with respect to its subject matter. This Agreement may not be amended, supplemented, or otherwise modified except by a written agreement executed by the party to be charged with the amendment.
- (b) No party may assign any of its rights or delegate any of its obligations under this Agreement without the prior written consent of the other parties. Subject to the preceding sentence, this Agreement will apply to, be binding in all respects upon and inure to the benefit of the successors and permitted assigns of the parties.
- (c) If any provision of this Agreement is held invalid or unenforceable by any court of competent jurisdiction, the other provisions of this Agreement will remain in full force and effect. Any provision of this Agreement held invalid or unenforceable only in part or degree will remain in full force and effect to the extent not held invalid or unenforceable.
- (d) With regard to all dates and time periods set forth or referred to in this Agreement, time is of the essence.
- (e) This Agreement will be governed by and construed under the laws of the State of Indiana without regard to conflicts-of-laws principles that would require the application of any other law.
- (f) This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original copy of this Agreement and all of which, when taken together, will be deemed to constitute one and the same agreement. The exchange of copies of this Agreement and of signature pages by facsimile or electronic mail transmission shall constitute effective execution and delivery of this Agreement as to the parties and may be used in lieu of the original Agreement for all purposes. Signatures of the parties transmitted by facsimile or electronic mail shall be deemed to be their original signatures for all purposes.

- (g) Except as otherwise provided in this Agreement, each of the parties hereto shall bear its respective accounting, legal and other expenses incurred in connection with the transactions contemplated by this Agreement.
- (h) Buyer and the Sellers have participated jointly in the negotiation and drafting of this Agreement and the Transaction Documents. In the event any ambiguity or question of intent or interpretation arises, this Agreement and the Transaction Documents shall be construed as if drafted jointly by Buyer and Sellers, and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement. Any reference to any federal, state, local or foreign statute or law shall be deemed also to refer to all rules and regulations promulgated thereunder, unless the context requires otherwise. The word "including" in this Agreement shall mean including without limitation. Words in the singular shall be held to include the plural and vice versa and words of one gender shall be held to include the other genders as the context requires. The terms "hereof," "herein," and "herewith" and words of similar import shall, unless otherwise stated, be construed to refer to this Agreement as a whole (including all of the Schedules and Exhibits hereto) and not to any particular provision of this Agreement, and Section, Paragraph, Exhibit, and Schedule references are to the Sections, Paragraphs, Exhibits and Schedules to this Agreement, unless otherwise specified. The word "or" shall not be exclusive. Provisions of this Agreement shall apply, when appropriate, to successive events and transactions. Section references refer to this Agreement unless otherwise specified.
- (i) Any notice, request, demand, waiver, consent, approval or other communication which is required or permitted to be given to any party hereunder shall be in writing and shall be deemed given only if delivered to the party personally or sent to the party by telecopy, by registered or certified mail (return receipt requested) with postage and registration or certification fees thereon prepaid, or by any nationally recognized overnight courier addressed to the party at its address set forth below:

If to Buyer:

City of Carmel, Hamilton County, Indiana
c/o John Duffy, Director of Utilities
One Civic Square
Carmel, Indiana 46032

With a copy to:

Bingham McHale LLP
2700 Market Tower
10 West Market Street
Indianapolis, Indiana 46204
Attention: Randolph L. Seger, Esq.
Fax: (317) 236-9907

If to Sellers:

Consolidated City of Indianapolis, Marion County, Indiana
c/o Jonathan Bryant, Esq., Office of Corporation Counsel
Suite 1601, City-County Building
200 E. Washington Street
Indianapolis, Indiana 46204
Fax: (317) 327-3968

With a copy to:

Sommer Barnard PC
One Indiana Square
Suite 3500
Indianapolis, Indiana 46204
Attention: Michael C. Terrell, Esq.
Fax: (317) 713-3699

Either party may change the above addresses by giving written notice to the other party.

- (j) All Exhibits and Disclosure Schedules annexed hereto or referred to herein are hereby incorporated in and made a part of this Agreement as if set forth in full herein. Disclosure of any fact or item in any Schedule referenced by a particular Section in this Agreement shall, should the existence of the fact or item or its contents be clearly related to any other paragraph or section, be deemed also to be disclosed with respect to that other paragraph or section.
- (k) This Agreement is solely for the benefit of the parties hereto. Nothing herein expressed or implied is intended or should be construed to confer upon or give to any person other than the parties hereto and their successors and permitted assigns any rights or remedies under or by reason of this Agreement.
- (l) The parties may, by mutual agreement, amend this Agreement in any respect, and any party, as to such party, may (i) extend the time for the performance of any of the obligations of the other party; (ii) waive any inaccuracies in representations and warranties by the other party; (iii) waive compliance by the other party of any of the covenants or agreements contained herein and performance of any obligations by the other party; and (iv) waive the fulfillment of any condition that is precedent to the performance by such party of any of its obligations under this Agreement. To be effective, any such amendment or waiver must be in writing and be signed by the party providing such waiver or extension, as the case may be. The waiver by any party hereto of any breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach, whether or not similar.

- (m) The headings preceding the text of the sections and subsections hereof are inserted solely for convenience of reference, and shall not constitute a part of this Agreement nor shall they affect its meaning, construction or effect.
- (n) It is understood and agreed that neither the specification of any dollar amount in the representations and warranties contained in this Agreement nor the inclusion of any specific item in the Disclosures Schedules or Exhibits is intended to imply that such amounts or higher or lower amounts, or the items so included or other items, are or are not material, and none of the parties shall use the fact of the setting of such amounts or the fact of any inclusion of any such item in the Disclosure Schedules or Exhibits in any dispute or controversy between the parties as to whether any obligation, item or matter is or is not material for purposes hereof.
- (o) Sellers and Buyer agree to waive, if applicable, the requirements of the Indiana Uniform Commercial Code - Bulk Transfers as set forth in Indiana Code § 26-1-6-101 *et seq.* (“Bulk Transfers Law”).

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK.]

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Agreement on the ____ day of _____ 2006.

CITY OF CARMEL,
HAMILTON COUNTY, INDIANA

By: _____
James Brainard, Mayor

By: _____
Richard L. Sharp, President
Carmel City Council ("Council")

CARMEL BOARD OF PUBLIC
WORKS AND SAFETY

By: _____
James Brainard

By: _____
Lori Watson

By: _____
Mary Ann Burke

CONSOLIDATED CITY OF INDIANAPOLIS,
MARION COUNTY, INDIANA

By: _____

(Printed)

Its: _____

By: _____

(Printed)

Its: _____
Signing on behalf of the
City-County Council

1045621.4

INDIANAPOLIS DEPARTMENT OF
WATERWORKS

By: _____

(Printed)

Its: _____
Signing on behalf of the Department
of Waterworks

Indianapolis Water Purchase

- Carmel Utilities will acquire all of the Indianapolis Water Customers “Acquired Area Customers” (approximately 8100) within Carmel and Clay Township. Pending approval of the Indianapolis and Carmel City Councils, closing will occur on or about June 23rd, 2006. “Exhibit A” Attached to the Asset Purchase Agreement shows the Acquired Area.
- Carmel will pay Indianapolis \$1.8 million per year over a twenty-year period. This payment will be made directly from revenue Carmel Utilities will receive on a monthly basis from the Acquired Area Customers. No additional financing is needed for the purchase.
- Indianapolis will retain large transmission mains on 106th Street, 96th Street, and a portion of Gray Road to convey water to customers outside of Clay Township.
- Carmel Utilities will convert all of the Acquired Area Customers to Carmel water within five years after the closing date. This will require the physical splitting of the systems.
- During the five-year transition period, Carmel Utilities will buy water from Indianapolis at the current Indianapolis wholesale rate and receive a dollar for dollar credit against the purchase price. Carmel Utilities will be responsible for all customer service and maintenance functions that will begin as of the closing date.
- The Acquired Area Customers will continue to pay the same rates as they are currently being charged by Indianapolis. Carmel has committed to “freezing” these rates for five years after the closing date.
- The Indianapolis Water purchase will not cause a rate increase for current Carmel Utility water customers. Carmel Utilities has not had an increase in water rates for over 13 years.

EXHIBITS

A	Carmel	Acquisition Area Map (MOU Map)
B	Indianapolis	Easements and Rights-of-way
C	Indianapolis	Easement Assignments
D	Carmel	Assumption Agreement
E	Carmel	Takedown Schedule
F	Carmel	Bill of Sale
G	Carmel	Mutual Release and Agreement to Dismiss Proceeding (with Exhibits)

SCHEDULES

1(a)(4)	Indianapolis	All permits, licenses and approvals necessary for the operation of the Acquired Assets.
3	Indianapolis	List and copies of developer contracts to be assumed by Buyer.
4(a)	Carmel	Schedule of payment of Purchase Price.
6(e)	Carmel	Sample computation of methodology for computing monthly billing and credit
9(a)(3)	Indianapolis	Violation of laws or agreements. (Sellers)
9(a)(4)	Indianapolis	List of permits and licenses needed to operate the Acquired Assets that Indianapolis does not have or is not in compliance with.
9(a)(5)	Indianapolis	List of outstanding notices, citations, summons and orders issued concerning the Acquired Assets.
9(a)(6)	Indianapolis	Sellers' consents.
9(a)(7)	Indianapolis	Status of the litigation pending in <i>The Consolidated City of Indianapolis v. NiSource, Inc. and IWC Resources Corp.</i>
9(a)(9)	Indianapolis	List of liabilities that constitute Assumed Liabilities not set forth elsewhere.
9(b)(2)	Carmel	Violation of laws or agreements. (Buyer)
9(b)(3)	Carmel	Buyer's consents.
10(c)	Carmel	Certification concerning Sellers' use of the Installment Payments of the Purchase Price.
10(k)	Carmel	Schedule of Acceleration of Installments of Purchase Price.

EXHIBIT A

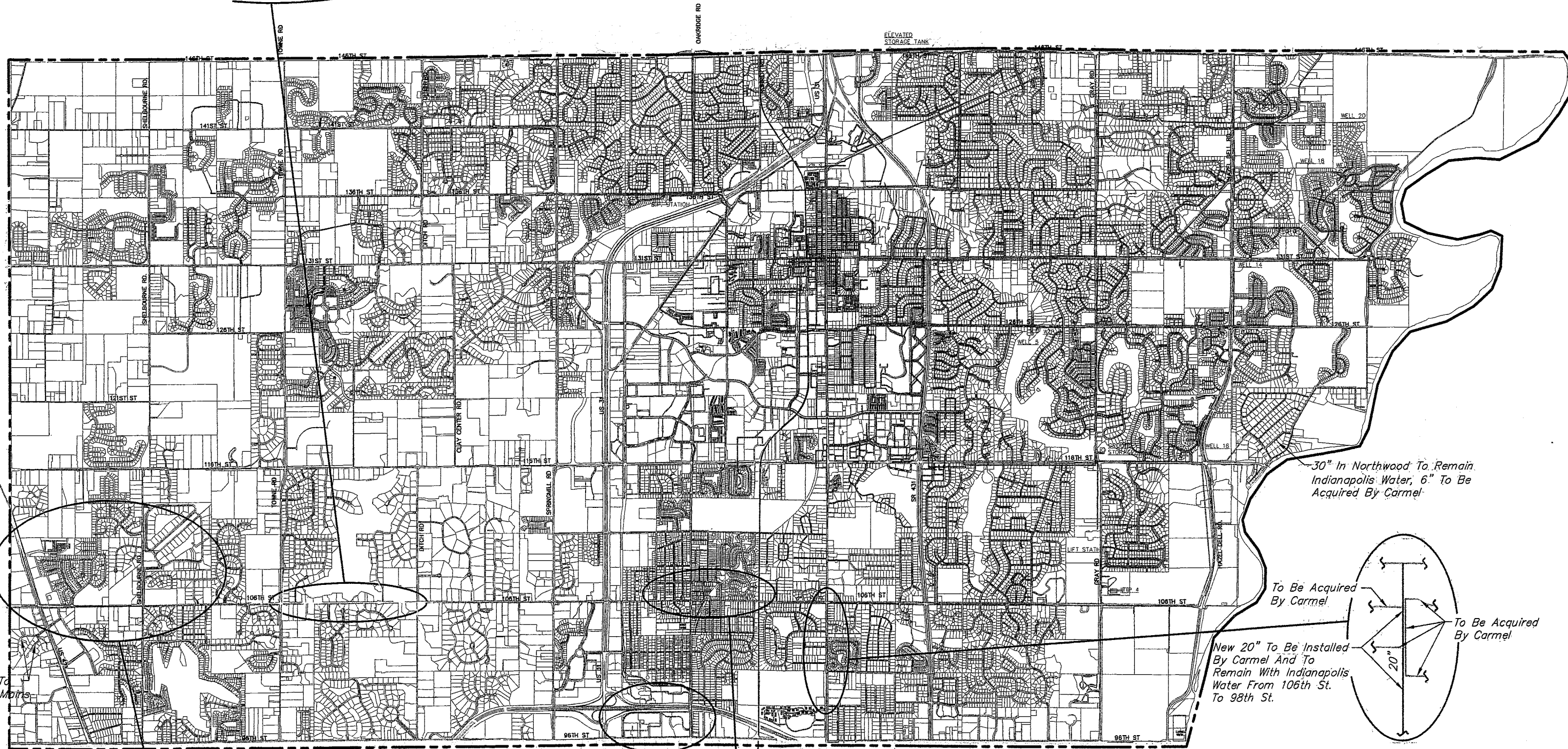
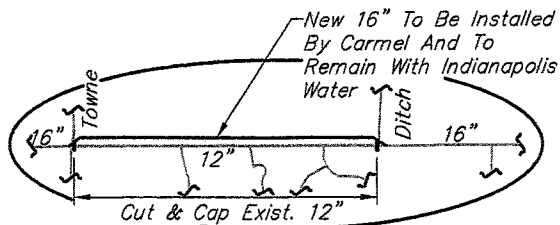
Acquisition Area Map

See Attached.

EXHIBIT B

Easements and Rights-of-Way

See Attached.



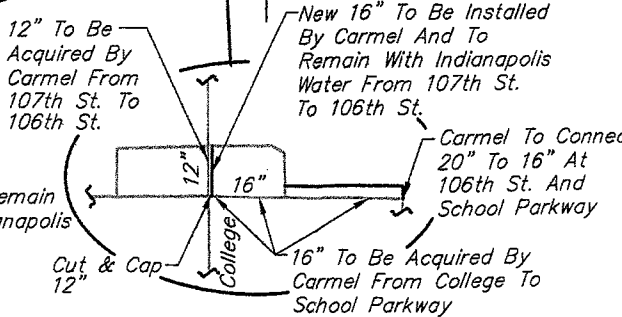
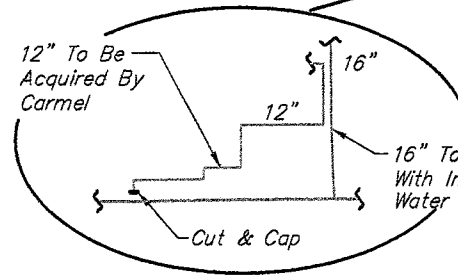
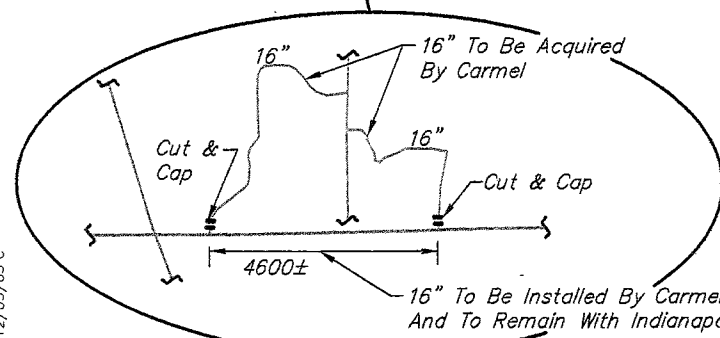
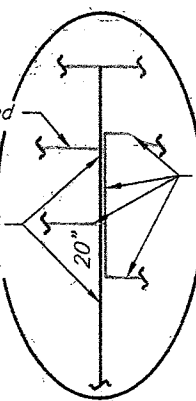
Carmel To Acquire Mains

30" In Northwood To Remain Indianapolis Water, 6" To Be Acquired By Carmel

To Be Acquired By Carmel

To Be Acquired By Carmel

New 20" To Be Installed By Carmel And To Remain With Indianapolis Water From 106th St. To 98th St.



- Acquired Service Area (Clay Township): All Of Clay Township Is To Be Exclusively Served By The City Of Carmel's Water Utility
- Existing Carmel Water Mains
- Existing IW Water Mains (To Be Acquired By Carmel)
- Water Mains To Remain With Indianapolis Water Per Changes As Noted

CITY OF CARMEL, INDIANA
INFRASTRUCTURE DELINEATION

Jones & Henry Engineers, Ltd.
 2420 N. COLISEUM BLVD., SUITE 214, FORT WAYNE INDIANA 46805
 (260) 482-1920 FAX (260) 484-7210
 WEB: WWW.JHENGE.COM

APRIL 2006
 Exhibit A

Note: Not All Water Mains Are Shown

Exhibit B

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This document and the easements attached to it comprise Exhibit B to the Asset Purchase Agreement by and among the Consolidated City of Indianapolis, Marion County, Indiana (the "City"), the Department of Waterworks of the Consolidated City of Indianapolis, Marion County, Indiana (the "Department of Waterworks") (the City and the Department of Waterworks, each a "Seller" and, collectively, "Sellers"), and the City of Carmel, Hamilton County, Indiana ("Buyer").

<u>Name</u>	<u>Instrument Number</u>
Steve E. Purtee	9342264
Steven E. Ross and Holly S. Ross	9609609384
H. Eric Zeller and Virginia N. Zeller	9220187
Bruce Webster and Donna L. Webster	14782
Duke Realty Limited Partnership	9501297
Michael Shen Family (A) Limited Partnership	2002-00078108
Charles H. Schmidt	Below
Betty Joan Tucker	" "
Barbara Jean Lyons	" "
Bonita June Gadinier	" "
Vera J. Hinshaw Revocable Trust U/A Dated 12-7-90	" "
Wilbur E. Tyner, Jr. as Trustee of the	" "
Wilbere E. Tyner, Jr. Revocable Intervivos Trust	" "
Harlan Howard Tyner	" "
Linda Jean Bray	" "
Karen Louis Newsom	9446227-9446234 and 9446245
American Fletcher National Bank and Trust Co.	Book 4, Page 158
Don E. Perry and Kenneth C. Sebree	8744686
Northwest Associates	8414694
American Fletcher National Bank and Trust Co.	8415204
Merchants National Bank & Trust Co. of Indpls.	85__359
Beverly Enterprises-Indiana, Inc.	85_1037
The C. P. Morgan Co., Inc.	9403454
Douglas J. Canull and Kathy J. Canull	9358355
Virginia M. Hahn	9358356
Estridge Development Company, Inc.	9359253
Cornerstone Place, L.P.	9410494
Keen Associates-1991-B, L.P.	9410495
Keen Associates-1991-B, L.P.	9410493
Meridian 465 Associates, L.P.	9228299
Meridian 465 Associates, L.P.	9228300
Keen Associates-1991-B, L.P.	9410496
Keen Associates-1991-B, L.P.	9410492
Hills Building & Construction Services No. 5, Inc.	9450839
Methodist Hospital of Indiana, Inc.	9540355
Medical Plaza Partners North, L.P.	9540354

Donald S. Woods and Erika H. Woods	9560614
Robert D. Boxell and Peggy L. Boxell	9560613
Scott M. Featherston	9560615
Bridlebourne Development Company and Bridlebourne Homeowner's Association, Inc.	9609607730
Mark W. Boyce and Alan L. Boyce	9228301
Lisa A. Bick	200100040695
Cole M. Alexis and Alice J. Johns	200100060700
Robert J. Steel	200100060701
Brenda M. Dettmer	200100060702
Howard I. Gross and Kathy J. Gross	200000055730
Earlham College	200000058129
Carmel-Clay Parks and Recreation Board	200000059026
John M. House and Barbara P. House	200100000538
Reveille Office #3	8905117
Hills Building & Constructions Services No. 5, Inc.	8908399
Anita C. Inlow	200300042539
Jan F. Foulke	200000055729
Schutz and Thompson, Incorporated	10151
Craig A. May, Paul W. Sweeney, and 421 Realty Company, Inc.	200300071088
Craig A. May, Paul W. Sweeney, and 421 Realty Company, Inc.	200300042557
Alan Scott Chaplin and Carolyn A. Chaplin	200300042538
John J. Karesh	200300042537
Carl B. and Ora Lee Terry	200300042554
Paul Shoopman	200300042555
Stephen A. Frye and Karen D. Frye	200300042536
Methodist Health Group, Inc.	200100000539
The Hamilton County Park and Recreation Board	200000059027
Mary J. Isch and John H. Isch	200100064193
Dennis J. Reinbold and Jennifer A. Reinbold	200100045636
Crow-Hammes-Gillespie III	8800946
Crow-Pennwood	8800948
Springmill Associates	8415205
Judith Ann Fisher	8625262
Richard R. Young and Leonard H. Wolfson	8800947
Guernsey Van Riper	8746821
Dellen Realty, Inc.	8746822
Randall Koorsen and Judith Koorsen	8746291
Paul E. Estridge Corp.	8746292

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EXHIBIT C

Easement Assignments

See Attached.

Exhibit C has not yet been provided

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EXHIBIT D

Assumption Agreement

See Attached.

ASSUMPTION AGREEMENT

THIS ASSUMPTION AGREEMENT is executed as of _____, 2006, by the City of Carmel, Hamilton County, Indiana ("Buyer"), pursuant to the Asset Purchase Agreement dated as of _____, 2006, by and among the Consolidated City of Indianapolis, Marion County, Indiana, and the Department of Waterworks of the Consolidated City of Indianapolis, Marion County, Indiana (collectively, "Sellers"), and Buyer (the "Purchase Agreement"). All capitalized terms not otherwise defined herein are defined in the Purchase Agreement and shall have the meanings set forth therein.

WHEREAS, pursuant to the Purchase Agreement, Buyer has agreed to assume the Assumed Liabilities.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which hereby are acknowledged, Buyer agrees as follows:

1. Buyer hereby assumes and agrees to discharge Sellers' obligations under the Assumed Liabilities; provided, however, that Buyer does not assume or agree to discharge, and shall have no liability with respect to the Retained Liabilities.
2. Buyer covenants and agrees that it will from time to time, upon reasonable request from Sellers, execute and deliver all such other instruments as shall, and do all as shall, in the reasonable opinion of Sellers, be necessary to effectually and completely assume and become liable for the Assumed Liabilities.
3. This Assumption Agreement shall be governed by and construed in accordance with the laws of the State of Indiana, without giving effect to the conflicts of laws principles thereof.
4. This Assumption Agreement, and the terms and conditions hereof, shall inure to the benefit of, and be binding upon, the respective successors and assigns of Sellers and Buyer.
5. This Assumption Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but which together shall constitute one and the same instrument.
6. None of the provisions of this Assumption Agreement may be waived, changed or altered except in writing signed by the Buyer.
7. In the event of a conflict between the terms and conditions of this Assumption Agreement and the terms and conditions of the Purchase Agreement, the terms and conditions of the Purchase Agreement shall govern, supersede and prevail.

IN WITNESS WHEREOF, Buyer has caused this Assumption Agreement to be executed on the day and year first above written.

BUYER:

The City of Carmel, Hamilton County, Indiana

By: _____
James Brainard, Mayor

IN WITNESS WHEREOF, Sellers have caused this Assumption Agreement to be executed on the day and year first above written.

SELLERS:

Consolidated City of Indianapolis,
Marion County, Indiana

Indianapolis Department of Waterworks

By: _____

(Printed)

By: _____

(Printed)

Its: _____

(Printed)

Its: _____

(Printed)

Signing on Behalf of the City-County
Council

Signing on Behalf of the
Department of Waterworks

704810.53307//1010555

EXHIBIT E

Takedown Schedule

See Attached.



Jones & Henry Engineers, Ltd.
Fort Wayne, Indiana 46805

2420 Coliseum Blvd. N., Suite 214
Ph: 260-482-1920, Fax: 260-484-7210

.....
.....

Purchased Water Volume per Takedown Schedule
Clay Township
Closing on Mid-June, 2006

	Water Purchased by Carmel from Indianapolis (M.gal./year)					
	2006	2007	2008	2009	2010	2011
Estimated Gallons/Year (MG)	624	1,255	1,246	1,107	962	427
10% Contingencies	62	125	125	111	96	43
Total Gallons/Year (MG)	686	1,380	1,370	1,218	1,058	469

EXHIBIT F

Bill of Sale

See Attached.

BILL OF SALE AND ASSIGNMENT

THIS BILL OF SALE AND ASSIGNMENT (this "Bill of Sale") is executed as of _____, 2006, by the Consolidated City of Indianapolis, Marion County, Indiana, and the Department of Waterworks of the Consolidated City of Indianapolis, Indiana, its Department of Waterworks (collectively, "Sellers") pursuant to an Asset Purchase Agreement dated as of _____, 2006, by and among Sellers and the City of Carmel, Hamilton County, Indiana ("Buyer") (the "Purchase Agreement"). All capitalized terms not otherwise defined herein are defined in the Purchase Agreement and shall have the meanings set forth therein.

Whereas, Sellers have agreed to transfer and assign to Buyer, and Buyer has agreed to accept such transfer and assignment from Sellers, the Acquired Assets.

Now, therefore, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which hereby are acknowledged, Seller agrees as follows:

1. Pursuant to the terms of the Purchase Agreement, Sellers hereby sell, assign, transfer, deliver, and convey to Buyer, the Acquired Assets to have and to hold unto Buyer, its successors and assigns, to and for its use forever. Sellers, under such terms and conditions as set forth in the Purchase Agreement covenant and agree, upon reasonable request from Buyer, to execute and deliver all such other instruments of conveyance, and do all as shall, in the reasonable opinion of Buyer, be necessary to transfer and assign to Buyer the Assets.
2. This Bill of Sale shall be governed by and construed in accordance with the laws of the State of Indiana, without giving effect to the conflicts of laws principles thereof.
3. This Bill of Sale and the terms and conditions hereof shall inure to the benefit of, and be binding upon, the respective successors and assigns of Sellers and Buyer.
4. This Bill of Sale may be executed in two or more counterparts, each of which shall be deemed an original, but which together shall constitute one and the same instrument.
5. None of the provisions of this Bill of Sale may be waived, changed or altered except in writing by all of the parties hereto.
6. In the event of a conflict between the terms and conditions of this Bill of Sale and the terms and conditions of the Purchase Agreement, the terms and conditions of the Purchase Agreement shall govern, supersede and prevail.

WITNESS the execution hereof as of the effective date first written above.

SELLERS:

CONSOLIDATED CITY OF INDIANAPOLIS,
MARION COUNTY, INDIANA

INDIANAPOLIS DEPARTMENT OF
WATERWORKS

By: _____

By: _____

(Printed)

(Printed)

Its: _____

Its: _____

Signing on behalf of the Department
of Waterworks

By: _____

(Printed)

Its: _____

Signing on behalf of the
City-County Council

BUYER:

CITY OF CARMEL,
HAMILTON COUNTY, INDIANA

By: _____

James Brainard, Mayor

STATE OF INDIANA)
COUNTY OF MARION) SS:

The foregoing instrument was acknowledged before me this ____ day of _____, 2006, by _____, _____ of the Consolidated City of Indianapolis, Marion County, Indiana, an Indiana municipal corporation on behalf of the City.

Notary Public

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

The foregoing instrument was acknowledged before me this ____ day of _____, 2006, by _____, _____ of the Department of Waterworks of the Consolidated City of Indianapolis, Marion County, Indiana.

Notary Public

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

The foregoing instrument was acknowledged before me this ____ day of _____, 2006, by _____, _____ of the City-County Council of the Consolidated City of Indianapolis, Marion County, Indiana.

Notary Public

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

The foregoing instrument was acknowledged before me this ____ day of _____, 2006, by the Honorable James Brainard, Mayor of the City of Carmel, Hamilton County, Indiana, an Indiana municipal corporation on behalf of the City.

Notary Public

This Instrument Prepared by:
Randolph L. Seger, Esq.
Bingham McHale LLP
2700 Market Tower
10 West Market Street
Indianapolis, IN 46204

704810.53307//1010557

EXHIBIT G

Mutual Release and Agreement to Dismiss

See Attached.

704810.53307//1061388

MUTUAL RELEASE AND AGREEMENT TO DISMISS PENDING PROCEEDINGS

This Mutual Release and Agreement to Dismiss Pending Proceedings ("Release") is given and entered into this _____ day of _____, 2006, by and between the Consolidated City of Indianapolis and the Department of Waterworks of the Consolidated City of Indianapolis (hereafter referred to individually and collectively as "Indianapolis"), on the one hand, and the City of Carmel ("Carmel"), on the other.

RECITALS:

1. On March 15, 2002, Indianapolis and Carmel entered into an agreement (the "Agreement") providing for the potential sale by Indianapolis to Carmel of various water utility assets in Clay Township, Hamilton County, Indianapolis, that Indianapolis was then seeking to acquire, and that it ultimately did acquire, from NiSource Inc. and IWC Resources Corporation.
2. After the Agreement was signed, a dispute arose between Indianapolis and Carmel concerning their respective rights and obligations under it.
3. That dispute resulted in the initiation of the following proceedings:
 - a. An action brought by Indianapolis on September 21, 2004 in Marion Superior Court, originally designated as Cause No. 49D07-0409-PL-001764 and redesignated, following a change of venue from the judge, as Cause No. 49D04-0409-PL-001764 (the "Marion Superior Court Action");
 - b. An administrative action brought by Carmel on September 22, 2004 before the Indiana Utility Regulatory Commission (the "IURC"), designated as Cause No. 42725 (the "IURC Action"); and
 - c. An appeal brought by Indianapolis on February 18, 2005 of an order entered in the IURC Action on February 2, 2005, which appeal is pending before the Indiana Court of Appeals as Cause No. 93A02-0503-EX-194 (the "Appeal").
4. The dispute between Indianapolis and Carmel concerning their respective rights and obligations under the Agreement also resulted in the issuance of a letter by Carmel dated March 18, 2005, addressed to the Honorable Bart Peterson, Mayor of the Consolidated City of Indianapolis, the Indianapolis/Marion County City-County Council, Barbara Howard, Chairman of the Department of Waterworks of the Consolidated City of Indianapolis, and the Indiana Political Subdivision Risk Management Commission, constituting a notice of tort claim by Carmel pursuant to Indiana Code § 34-13-3-1 *et seq.* (the "Tort Claim Notice").
5. Under even date herewith, Indianapolis and Carmel entered into an asset purchase agreement (the "Asset Purchase Agreement") providing for the sale of certain water utility assets

located in Clay Township, Hamilton County, Indiana, by Indianapolis to Carmel at a price and upon other specific terms and conditions set forth therein.

6. Under even date herewith, the transaction contemplated by the Asset Purchase Agreement was consummated.

7. The consummation of that transaction was intended by Indianapolis and Carmel to settle and resolve all claims and disputes that are pending between them or that may arise in the future relating in any way to the Agreement, including without limitation the claims and disputes that are the respective subjects of the Marion Superior Court Action, the IURC Action, the Appeal, and the Tort Claim Notice.

8. Indianapolis and Carmel are entering into this Release in order to release each other from all such pending and potential claims, and to cause the dismissal of the Marion Superior Court Action, the IURC Action, and the Appeal.

NOW, THEREFORE, in consideration of the foregoing premises and of the covenants and agreements set forth hereafter, Indianapolis and Carmel agree as follows:

1. Mutual Release. Indianapolis and Carmel each hereby releases and forever discharges the other, and the other's agents, representatives, officers, officials, and employees, from any and all claims, costs, demands, damages, losses, or liabilities of every kind and nature, whether known or unknown, that each now has or may have in the future resulting from, based upon, arising out of, or in any manner connected with or relating to the Agreement, including without limitation those claims, costs, demands, damages, losses, or liabilities asserted or that could have been asserted by either Indianapolis or Carmel in the Marion Superior Court Action, the IURC Action, the Appeal, or the Tort Claim Notice.

2. Execution and Filing of Dismissal Documents. Promptly after the execution of this Release, Indianapolis and Carmel shall each cause its duly authorized representatives to:

- a. execute a Stipulation and Order of Dismissal in the form attached hereto as Exhibit A and file it with the Marion Superior Court, Civil Division, Room No. 4, in order to cause the dismissal, with prejudice, of the Marion Superior Court Action;
- b. execute (Carmel only) a Motion to Dismiss with Prejudice in the form attached hereto as Exhibit B and file it with the IURC; Indianapolis shall not oppose the Motion to Dismiss with Prejudice, and Indianapolis and Carmel shall use their best efforts to cause the Office of Utility Consumer Counselor not to oppose the Motion to Dismiss with Prejudice in order to cause the dismissal, with prejudice, of the outstanding issues in the IURC Action;

- c. execute a Joint Motion to Dismiss Appeal in the form attached hereto as Exhibit C and file it with the Indiana Court of Appeals in order to cause the dismissal, with prejudice, of the Appeal.

3. Further Assurances. Indianapolis and Carmel each covenants and agrees to take all other action and to cause its duly authorized representatives to execute and, if appropriate, file all other instruments or documents that may be necessary to cause the dismissal, with prejudice, of the Marion Superior Court Action, the IURC Action, or the Appeal, or otherwise to give effect to the releases and dismissals contemplated by this Release.

IN WITNESS WHEREOF, the parties have caused their duly authorized representatives to execute this Release on the date set forth above.

THE CONSOLIDATED CITY OF
INDIANAPOLIS, INDIANA

By: _____
Printed: _____
Title: _____

THE DEPARTMENT OF WATERWORKS
OF THE CONSOLIDATED CITY OF
INDIANAPOLIS, INDIANA

By: _____
Printed: _____
Title: _____

THE CITY OF CARMEL, INDIANA

By: _____
James Brainard
Mayor

EXHIBIT A

STATE OF INDIANA)
) SS
COUNTY OF MARION)

IN THE MARION SUPERIOR COURT
CIVIL DIVISION, ROOM NO. 4
CAUSE NO.: 49D04-0409-PL-001764

THE CONSOLIDATED CITY OF)
INDIANAPOLIS and THE)
DEPARTMENT OF WATERWORKS)
OF THE CONSOLIDATED CITY OF)
INDIANAPOLIS,)
)
 Plaintiffs,)
)
 vs.)
)
THE CITY OF CARMEL,)
)
 Defendant.)

STIPULATION AND ORDER OF DISMISSAL

Pursuant to Indiana Trial Rule 41(A)(1)(b), the parties hereto, by their respective attorneys, hereby stipulate that this action, including all claims and counterclaims alleged therein, shall be dismissed with prejudice, without costs or attorneys' fees, and without further notice to any party.

Michael C. Terrell, #2124-49
Donald C. Biggs, #3680-49
SOMMER BARNARD, PC
One Indiana Square, Suite 3500
Indianapolis, Indiana 46204-2023
Telephone: (317) 713-3500
Facsimile: (317) 713-3699

Attorneys for Plaintiffs the Consolidated
City of Indianapolis and the Department of
Waterworks of the Consolidated City of
Indianapolis

Randolph L. Seger, #240-49
Brian W. Welch, #1556-49
Phillip J. Fowler, #20126-02
BINGHAM McHALE LLP
2700 Market Tower
10 West Market Street
Indianapolis, Indiana 46204-4900
Telephone: (317) 635-8900
Facsimile: (317) 236-9907

Attorneys for Defendant the City of Carmel

SO ORDERED this _____ day of _____, 2006.

Judge, Marion Superior Court

Distribution:

Michael C. Terrell
Donald C. Biggs
SOMMER BARNARD, PC
One Indiana Square, Suite 3500
Indianapolis, Indiana 46204-2023

Jonathon Bryant, Esq.
Office of Corporation Counsel
CITY OF INDIANAPOLIS
200 East Washington Street
Indianapolis, Indiana 46204

Randolph L. Seger
Brian W. Welch
Phillip J. Fowler
BINGHAM McHALE LLP
2700 Market Tower
10 West Market Street
Indianapolis, Indiana 46204-4900

EXHIBIT B

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

IN THE MATTER OF THE PETITION OF THE)	
CITY OF CARMEL, INDIANA, REQUESTING)	
THE INDIANA UTILITY REGULATORY)	
COMMISSION FOR A DETERMINATION OF THE)	
VALUE OF CERTAIN PROPERTY OF THE)	CAUSE NO. 42725
CONSOLIDATED CITY OF INDIANAPOLIS,)	
INDIANA, AND ITS DEPARTMENT OF)	
WATERWORKS, FOR AUTHORITY TO ISSUE)	
BONDS, NOTES, OR OTHER OBLIGATIONS AND)	
FOR APPROVAL OF A SCHEDULE OF RATES)	
AND CHARGES FOR WATER SERVICE FOR)	
ACQUIRED CUSTOMERS.)	
)	
RESPONDENT: THE CONSOLIDATED)	
CITY OF INDIANAPOLIS, INDIANA, AND)	
ITS DEPARTMENT OF WATERWORKS.)	

MOTION TO DISMISS WITH PREJUDICE

Pursuant to Indiana Administrative Code title 170, rule 1-1.1-26, and Indiana Trial Rule 41(A)(1)(b), Carmel moves the Commission to dismiss this proceeding with prejudice as to all remaining and unresolved issues, matters, and claims, without costs or attorneys' fees. Carmel reports to the Commission that Carmel and Indianapolis have closed a purchase and sale of water utility assets located in Clay Township. A copy of the executed Asset Purchase Agreement is attached as Exhibit A. A proposed Dismissal Order is attached as Exhibit B.

Respectfully submitted,

Randolph L. Seger, #240-49
David T. McGimpsey, #21015-49
Bonnie B. Jagoditz, #24348-41
BINGHAM MCHALE LLP
2700 Market Tower
10 West Market Street
Indianapolis, Indiana 46204-4900
Telephone: (317) 635-8900
Facsimile: (317) 236-9907

Attorneys for Petitioner the City of Carmel,
Indiana

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing has been served upon the following counsel of record by first class United States mail, postage prepaid, this _____ day of _____, 2006:

Michael C. Terrell
Donald C. Biggs
SOMMER BARNARD, PC
One Indiana Square, Suite 3500
Indianapolis, Indiana 46294

Daniel M. LeVay
OFFICE OF THE UTILITY CONSUMER COUNSELOR
501 Government Center North
100 North Senate Avenue
Indianapolis Indiana 46204

David T. McGimpsey

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

IN THE MATTER OF THE PETITION OF THE)
CITY OF CARMEL, INDIANA, REQUESTING)
THE INDIANA UTILITY REGULATORY)
COMMISSION FOR A DETERMINATION OF THE)
VALUE OF CERTAIN PROPERTY OF THE) CAUSE NO. 42725
CONSOLIDATED CITY OF INDIANAPOLIS,)
INDIANA, AND ITS DEPARTMENT OF)
WATERWORKS, FOR AUTHORITY TO ISSUE) DISMISSAL ORDER
BONDS, NOTES, OR OTHER OBLIGATIONS AND)
FOR APPROVAL OF A SCHEDULE OF RATES)
AND CHARGES FOR WATER SERVICE FOR)
ACQUIRED CUSTOMERS.) APPROVED:
)
RESPONDENT: THE CONSOLIDATED)
CITY OF INDIANAPOLIS, INDIANA, AND)
ITS DEPARTMENT OF WATERWORKS.)

BY THE COMMISSION:

Larry S. Landis, Commissioner

Scott R. Storms, Chief Administrative Law Judge

On September 22, 2004, the Petitioner, the City of Carmel, Indiana ("Carmel"), initiated this proceeding by filing its Petition with the Indiana Utility Regulatory Commission (the "Commission"). In its Petition, Carmel requested that the Commission determine the value and terms of sale of certain water utility assets that the Respondents, the Consolidated City of Indianapolis, Indiana, and its Department of Waterworks (together, "Indianapolis") purchased from the Indianapolis Water Company and then signed an Agreement dated March 15, 2002 with Carmel that contemplated Carmel's purchase from Indianapolis of water utility assets in Clay Township, Hamilton County (the "Acquisition"). Additionally, Carmel requested in its Petition that the Commission approve rates for customers that it would acquire in the Acquisition, and financing for the Acquisition.

In a Docket Entry, dated October 4, 2005, the Commission ordered Carmel and Indianapolis to mediate the issues in this Cause. On November 3, 2005, all parties to this Cause, including the Office of Utility Consumer Counselor (the "OUCC") attended the mediation, wherein Carmel and Indianapolis entered into a Memorandum of Understanding resolving the major issues. The Memorandum of Understanding provided that, subject to various terms and conditions including the negotiation of an asset purchase agreement acceptable to both parties, Indianapolis would sell particular water utility assets to Carmel for \$36.2 million, with Carmel

receiving credits for water purchased by Carmel during the first sixty months of the Agreement, payable over 20 years. Accordingly, Carmel and Indianapolis jointly requested that the Commission stay its consideration of the purchase price, terms and conditions for the Acquisition and that the Commission amend the procedural schedule to allow new pre-filing of testimony relating to the rates that Carmel proposes to charge customers acquired in the Acquisition, and the financing for the Acquisition, which motion was granted. On December 6, 2005, Carmel and the OUCC appeared at the evidentiary hearing in this Cause concerning rates and financing.

On December 14, 2005, the Commission issued an Order on less than all the issues, wherein the Commission approved the rates that Carmel will charge all customers acquired in the Acquisition and authorized Carmel to finance the Acquisition by agreeing to pay the purchase price to the Seller, Indianapolis, in the manner contemplated by the Memorandum of Understanding, and as to be more definitively set forth in an Asset Purchase Agreement (the "Purchase Agreement") to be negotiated and entered into by and between Carmel and Indianapolis. Carmel subsequently filed a copy of the executed Purchase Agreement with the Commission evidencing the purchase and financing. Accordingly, Carmel filed a Motion to Dismiss with Prejudice (the "Motion") in which Carmel requested dismissal, with prejudice, of all remaining and unresolved issues, matters and claims in this Cause. No party objected to the Motion.

The presiding officers note that through the execution of the Purchase Agreement the Parties have resolved all of the stayed issues in this Cause, and that for that reason this Cause should be dismissed.

IT IS THEREFORE ORDERED BY THE INDIANA UTILITY REGULATORY COMMISSION that:

- 1) Based on the information and findings above, Cause No. 42725 shall be and hereby is dismissed with prejudice.
- 2) This Order shall be effective on and after the date of its approval.

HARDY, HADLEY, LANDIS, SERVER AND ZIEGNER CONCUR:
APPROVED:

I hereby certify that the above is a true
and correct copy of the Order as approved.

Nancy E. Manley
Secretary to the Commission

EXHIBIT C

IN THE INDIANA COURT OF APPEALS

CASE NO. 93A02-0503-EX-194

THE CONSOLIDATED CITY OF
INDIANAPOLIS and THE DEPARTMENT
OF WATERWORKS OF THE
CONSOLIDATED CITY OF
INDIANAPOLIS,

Appellants-Respondents,

vs.

THE CITY OF CARMEL,

Appellee-Petitioner.

Appeal from the Indiana Utility
Regulatory Commission

Administrative Agency Case No. 42725

JOINT MOTION TO DISMISS APPEAL

Pursuant to Indiana Appellate Rule 36(A), appellants the Consolidated City of Indianapolis and the Department of Waterworks of the Consolidated City of Indianapolis (together, "Indianapolis") and appellee the City of Carmel hereby jointly move to dismiss this appeal. As grounds for this motion, Indianapolis and Carmel state as follows:

1. This appeal involves Indianapolis's challenge to the assertion of subject matter jurisdiction by the Indiana Utility Regulatory Commission (the "IURC") over a petition filed by Carmel. Carmel's petition requested the IURC to establish the price, terms, and conditions at and on which Indianapolis must sell various water utility assets to Carmel.

2. On November 15, 2005, Indianapolis and Carmel jointly moved the Court to stay this appeal because they had agreed in principle to a settlement in the IURC action. Under that agreement in principle, Indianapolis would sell particular water utility assets to Carmel at a specific price, subject to various terms and conditions including the negotiation of an asset

purchase agreement acceptable to both parties. The Court granted that motion to stay this appeal on November 29, 2005.

3. The sale of water utility assets by Indianapolis to Carmel that was contemplated by the parties' agreement in principle was consummated on _____, 2006. As a consequence, the issues in this appeal are now moot.

WHEREFORE, Indianapolis and Carmel respectfully request that this appeal be dismissed, with each party to bear its own costs.

Respectfully submitted,

Michael C. Terrell, #2124-49
Donald C. Biggs, #3680-49
SOMMER BARNARD, PC
One Indiana Square, Suite 3500
Indianapolis, Indiana 46204-2023
Telephone: (317) 713-3500
Facsimile: (317) 713-3699

Attorneys for Appellants the Consolidated City of
Indianapolis and the Department of Waterworks of
the Consolidated City of Indianapolis

Karl L. Mulvaney, #9255-49
Randolph L. Seger, #240-49
David T. McGimpsey, #21015-49
Bonnie B. Jagoditz, #24348-41A
BINGHAM McHALE LLP
2700 Market Tower
10 West Market Street
Indianapolis, Indiana 46204-4900
Telephone: (317) 635-8900
Facsimile: (317) 236-9907

Attorneys for Appellee the City of Carmel

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing has been served upon the following counsel of record by first class United States mail, postage prepaid, this _____ day of _____, 2006:

Randall C. Helmen
Daniel M. LeVay
OFFICE OF THE UTILITY
CONSUMER COUNSELOR
501 Government Center North
100 North Senate Avenue
Indianapolis, Indiana 46204

Jonathon Bryant, Esq.
Office of Corporation Counsel
CITY OF INDIANAPOLIS
200 East Washington Street, Suite 1601
Indianapolis, Indiana 46204

Michael C. Terrell

Schedule 1(a)(4)

Right of Way Permits, Licenses, and Approvals

1. Environmental Permits:
2. Construction Permits:

SB: 346528v1

DRAFT

Schedule 3

Contracts

1. Developer Refunds:
2. Area Rate Projects:
3. Customer Deposits and Advances:

SB: 346534

DRAFT

Hamilton County Potential Refunds												
Job Number	Township	Project Name	Developer	Developers Address	Number of Lots	Actual Cost	Revenue Allowance	Deposit Balance	Potential Refunds	In Service Date	Expiration Date	Remaining Lots
D-00-019	Clay	Clay Center Rd. 12020 N.	Earl & Carolyn Lanier MD	13751 Deer Ridge Pl Carmel, IN 46033	2	\$31,301.00	\$735.00	\$31,301.00	2 Lots	5/30/2000	5/30/2010	1
D-00-020	Clay	116th St. 845 W.	Robert Coad	P.O. Box 499 Carmel, IN 46032	9	\$41,781.00	\$534.00	\$41,781.00	9 Lots	11/29/2001	11/29/2011	9
D-01-155	Clay	Park Ave 10807-11060	PlanGroup	Varies	29	\$45,855.00	\$534.00	\$45,855.00	29 Lots	3/26/2002	3/26/2012	13
D-01-406	Clay	116th St. W of Shelbome	Dura Builders	5740 Decatur Blvd Indpls, IN 46241	0	\$39,166.00	\$534.00	\$39,166.00	0	3/30/2002	3/30/2012	0
D-02-163	Clay	Greentree Dr.	Group Plan		10	\$18,220.76	\$534.00	\$18,220.76	10	8/15/2003	8/15/2013	6
D-02-167	Clay	Cornell St. - 104th St.	Group Plan		14	\$20,047.00	\$534.00	\$20,047.00	14	12/19/2002	12/19/2012	9
D-02-245	Clay	116th St. 3567	Group Plan		3	\$4,570.00	\$534.00	\$4,570.00	3	12/10/2002	12/10/2012	1
D-95-263	Clay	Weston Ridge Sec. 1	Platinum Properties, LLC	9551 Delegates Row Indpls, IN 46240	34	\$177,751.00	\$721.00	\$163,237.00	0 Lots	9/16/1996	9/16/2006	0
D-95-289	Clay	Shelbome Green S6	Davis Homes, LLC	3755 E. 82nd St. Ste. 120 Indpls, IN 46240	52	\$89,996.00	\$621.00	\$54,881.00	0 Lots	3/22/1996	3/22/2006	0
D-95-340	Clay	Carmel Station Sec. 1	Bay Development Corporation	10415 N. College Avenue Indpls, IN 46280	54	\$49,649.00	\$621.00	\$15,494.00	0 Lots	4/17/1996	4/17/2006	0
D-95-018	Clay	Village @ Weston Place Sec. 2	Platinum Properties	9551 Delegates Row Indpls, IN 46240	59	\$55,104.50	\$388.00	\$32,212.50	0 Lots	9/18/1996	9/18/2006	0
D-95-061	Clay	Creswick Place Sec. 2	Creswick Corporation	P.O. Box 553 Carmel, IN 46032	43	\$130,498.00	\$498.00	\$109,593.00	1 Lot	8/1/1996	8/1/2006	1
D-95-102	Clay	Shelbome Green Sec. 2	Davis Homes, LLC	3755 E. 82nd St. Ste. 120 Indpls, IN 46240	49	\$105,655.00	\$548.00	\$90,647.00	3 Lots	10/7/1996	10/7/2006	3
D-95-103	Clay	Park @ Weston Place Sec. 2	Platinum Properties	9551 Delegates Row Indpls, IN 46240	58	\$71,274.25	\$418.00	\$48,367.73	12 Lots	10/28/1996	10/28/2006	0
D-97-396	Clay	Towne Rd	RJ Klein & Associates	12758 Hamilton Xing Blvd Carmel, IN 46032	2	\$7,504.00	\$399.00	\$7,504.00	2	10/19/1998	10/19/2008	1
D-98-005	Clay	Jessup Blvd, 10655	Michael Concannon	10655 Jessup Blvd., Indianapolis, IN 46290	1	\$4,351.00	\$705.00	\$4,351.00	1	12/9/1998	12/9/2008	0
D-98-325	Clay	E. 107th St & Belfountain	David H. Brandt	10816 N. Park Indpls, IN 46280	13	\$21,555.00	\$1,410	\$21,555.00	13	9/27/1999	9/27/2009	3
D-99-055	Clay	Bellefontaine & 104th St.	Group Plan		10	\$15,409.00	\$4,230.00	\$15,409.00	10	7/1/1999	7/1/2009	1
D-99-202	Clay	116 Street 1150 West	Scott Jones	1150 W. 116th St. Carmel, IN 46032	2	\$22,156.00	\$534.00	\$22,156.00	2 Lots	8/17/1999	8/17/2009	2
D-99-248	Clay	Ethel Street, 10398 N.	Habitat for Humanity, Hamilton Co.	P. O. Box 572 Noblesville, IN 46060	7	\$20,801.00	\$534.00	\$20,801.00	7 Lots	8/16/1999	8/16/2009	7
D-99-356	Clay	Spring Lake Estates Sec. 2	Donald Bodaniller	9900 N. Gray Road Indpls, IN 46237	25	\$28,610.00	\$534.00	\$24,270.00	15 Lots	12/8/1999	12/8/2009	15
D-99-365	Clay	Ethel Avenue & 104th	P.A. Robinson DBA Per Enterprises	3277 Smoke Ridge Ct. Carmel, IN 46033	1	\$9,190.00	\$534.00	\$9,190.00	1 Lot	5/12/2000	5/12/2010	8
D-99-439	Clay	Cornell Street, 10807-11055	PlanGroup	Varies	30	\$39,760.00	\$534.00	\$35,182.00	30 Lots	7/12/2000	7/12/2010	27
J-00-003	Clay	116th St. W. (Insay)	Rock Harding, Ltd	18809 Eagletown Rd Westfield, IN 46074	11	\$509,981.07	\$534.00	\$509,981.07	11 Lots	10/22/2001	10/22/2011	11
J-00-004	Clay	English Oaks	Delegen Development, LLC	277 E. 12th St. Indpls, IN 46202	27	\$123,016.50	\$534.00	\$104,796.50	0 Lots	2/16/2001	2/16/2011	0
J-00-028	Clay	Springwood Sec.	SCM Development, Inc.	90 Executive Drive Carmel, IN 46032	6	\$33,919.00	\$534.00	\$32,851.00	4 Lots	11/8/2000	11/8/2010	3
J-00-029	Clay	West Clay Sec. 15003	Brenwick TND Communities	12821 E. Market St. Ste. 200 Carmel, IN 46032	4	\$9,448.00	\$534.00	\$8,448.00	4 Lots	3/5/2001	3/5/2011	4
J-00-030	Clay	Village West Clay Sec. 10111	Brenwick Development Co.	12821 E. Market St. Ste. 200 Carmel, IN 46032	5	\$15,811.00	\$534.00	\$15,811.00	5 Lots	5/9/2001	5/9/2011	4
J-00-083	Clay	Sandstone Village Sec. 3	Sandstone Partners, LLC	9539 Priority Way W. Dr. Ste. 200 Indpls, IN 46240	41	\$49,606.50	\$534.00	\$28,760.50	2 Lots	6/7/2000	6/7/2010	0
J-00-141	Clay	Village of West Clay Glebe	Brenwick Two Development	12821 E. Market St. Ste. 200 Carmel, IN 46032	24	\$45,536.00	\$534.00	\$34,322.00	3 Lots	1/7/2004	1/7/2014	3
J-00-275	Clay	Guilford Park	Dura Development	5740 Decatur Blvd Indpls, IN 46241	60	\$90,554.07	\$534.00	\$46,375.07	60	10/30/2001	10/30/2011	0
J-00-276	Clay	Longbranch Estates Ph 1	Esbridge Group	1041 W. Main Street Carmel, IN 46032	15	\$167,760.00	\$534.00	\$162,585.00	15	5/6/2002	5/6/2012	12
J-00-327	Clay	Estate of West Clay	Estates, LLC	P.O. Box 554 Carmel, IN 46082	25	\$77,011.50	\$534.00	\$74,341.50	20 Lots	10/2/2001	10/2/2011	16
L-01-032	Clay	Windsor Grove	Richard J. Carriger	3510 E. 96th St. # 26 Indpls, IN 46240	35	\$39,665.50	\$534.00	\$74,543.50	7	8/19/2002	8/19/2012	7

J-01-039	Clay	Village of West Clay Sec. 5602	Brenwick Development	12821 E. Market St. Ste 200 Carmel, In 46032	10	\$30,150.00	\$534.00	\$28,014.00	6 Lots	2/15/2002	2/15/2012	6
J-01-046	Clay	Northaven	CP Morgan	4670 Haven Point Blvd. Indpls. In 46280	2	\$26,956.50	\$534.00	\$26,956.50	2	4/30/2002	4/30/2012	1
J-01-173	Clay	Village of West Clay Sec. 7501a	Brenwick Development	12821 E. Market St. Ste 200 Carmel, In 46032	2	\$14,752.50	\$534.00	\$14,752.50	2 Lots	12/12/2001	12/12/2011	2
J-01-175	Clay	Gulford Park Ph 2	Dura Development	5740 Decatur Blvd Indpls, IN 46241	46	\$57,988.50	\$534.00	\$34,492.50	8	5/13/2002	5/13/2012	1
J-01-269	Clay	Village of West Clay Sec. 3001	Brenwick Development	12821 E. Market St. Ste 200 Carmel, In 46032	40	\$16,550.00	\$534.00	\$11,210.00	30 Lots	12/13/2001	12/13/2011	30
J-01-342	Clay	Longbranch Estates Sec 1 & 2 Ph 2	Platinum Properties	9551 Delegates Row Indpls, In 46240	57	\$113,717.00	\$534.00	\$72,174.50	1	5/28/2002	5/28/2012	0
J-01-343	Clay	Longbranch Estates Ph 3	Platinum Properties	9551 Delegates Row Indpls, In 46240	53	\$87,452.38	\$534.00	\$97,452.38	53	19/2003	19/2013	6
J-02-169	Clay	Village of West Clay Sec. 3004	Brenwick Development	12821 E. Market St. Ste 200 Carmel, In 46032	40	\$13,826.00	\$534.00	\$8,486.00	30 Lots	3/1/2004	3/1/2014	30
J-02-190	Clay	Village of West Clay DPO1B	Brenwick Development	12821 E. Market St. Ste 200 Carmel, In 46032	30	\$26,653.50	\$534.00	\$15,438.00	9 Lots	32/4/2003	32/4/2013	9
J-03-014	Clay	Village of West Clay Sec. AG01 & AG02	Brenwick Development	12821 E. Market St. Ste 200 Carmel, In 46032	17	\$36,370.00	\$534.00	\$27,292.00	24 Lots	10/23/2003	10/23/2013	0
J-03-019	Clay	Village of West Clay Sec. 100D4a	Brenwick Development	12821 E. Market St. Ste 200 Carmel, In 46032	35	\$88,078.00	\$534.00	\$68,078.00	35 Lots	12/17/2003	12/17/2013	0
J-03-055	Clay	Longbranch Estates Sec 3	Platinum Properties	9551 Delegates Row, Indpls, In 46240	40	\$123,164.50	\$534.00	\$101,804.50	0	18/2004	18/2014	0
J-03-205	Clay	Village of West Clay Sec. 10002	Brenwick Development Co.	12821 E. Market St. Ste 200 Carmel, In 46032	37	\$99,953.50	\$534.00	\$69,953.50	37 Lots	32/12/2005	32/12/15	37
J-03-206	Clay	Village of West Clay Sec. 10003	Brenwick Development	12821 E. Market St. Ste 200 Carmel, In 46032	30	\$66,490.50	\$534.00	\$66,490.50	30	6/4/2004	6/4/2014	21
J-04-001	Clay	Village of West Clay Sec. 5003	Brenwick Development	12821 E. Market St. Ste 200 Carmel, In 46032	44	\$81,155.50	\$534.00	\$81,155.50	44 Lots	6/15/2004	6/15/2014	44
J-04-004	Clay	Weston Pointe Sec 1	Portrait Homes	9333 N. Meridian St. Indianapolis, IN 46280	23	\$116,964.50	\$534.00	\$116,964.50	23	10/4/2004	10/4/2014	23
J-04-144	Clay	Chateaux De Mouline	Campbell Development Co.	P.O. Box 501 Pendleton, In 46084	6	\$91,561.50	\$534.00	\$91,561.50	6 Lots	32/12/2005	32/12/15	6
J-96-141	Clay	Shelborne Sec. 7	Davis Homes, LLC	3755 E. 82nd St. Ste. 120 Indpls. In 46240	40	\$52,021.92	\$388.00	\$42,426.92	0 Lots	1/16/1997	1/16/2007	0
J-96-160	Clay	Spring Farms Sec. 2	Bay Development Corporation	10415 N. College Avenue Indpls, In 46280	36	\$75,124.00	\$358.00	\$61,578.00	0 Lots	10/8/1997	10/8/2007	0
J-96-176	Clay	Perks @ Springmill Sec. 5	Estridge Development Co.	1041 W. Main Street Carmel, In 46032	49	\$49,145.00	\$358.00	\$32,558.00	2 Lots	32/1/1997	32/1/2007	0
J-97-009	Clay	Shelborne Greene Sec. 3	Davis Homes, LLC	3755 E. 82nd Street # 120 Indpls, In 46240	47	\$60,922.00	\$328.00	\$65,429.50	7 Lots	11/12/1997	11/12/2007	5
J-97-010	Clay	Shelborne Greene Sec. 5a	Davis Homes, LLC	3755 E. 82nd Street # 120 Indpls, In 46240	27	\$32,079.50	\$328.00	\$23,949.60	29 Lots	11/6/1997	11/6/2007	1
J-97-011	Clay	Shelborne Greene Sec. 5b	Davis Homes, LLC	3755 E. 82nd Street # 120 Indpls, In 46240	28	\$34,779.50	\$328.00	\$25,955.50	0 Lots	11/25/1998	11/25/2008	0
J-97-012	Clay	Windemere Sec. 4b	Windemere Corporation	3510 E. 96th St. # 26 Indpls, In 46240	10	\$13,148.00	\$418.00	\$14,644.00	2 Lots	9/9/1997	9/9/2007	0
J-97-013	Clay	Windemere Sec. 5	Windemere Corporation	3510 E. 96th St. # 26 Indpls, In 46240	23	\$23,075.00	\$418.00	\$24,912.00	9 Lots	12/23/1997	12/23/2007	0
J-97-032	Clay	Kingsmill Sec. 4	Kingsmill Corporation	P.O. Box 649 Carmel, In 46032	27	\$52,689.50	\$389.00	\$44,940.50	6 Lots	10/11/1999	10/11/2009	4
J-97-033	Clay	Kingsmill Sec. 5	Kingsmill Corporation	P.O. Box 649 Carmel, In 46032	25	\$44,305.00	\$389.00	\$42,922.74	20 Lots	4/14/1999	4/14/2008	0
J-97-118	Clay	Perks @ Weston Place Sec. 3	Platinum Properties	9551 Delegates Row Indpls, In 46240	41	\$62,464.50	\$399.00	\$46,105.50	0 Lots	10/20/1997	10/20/2007	0
J-97-119	Clay	Weston Ridge Sec. 3	Platinum Properties	9551 Delegates Row Indpls, In 46240	29	\$46,577.50	\$399.00	\$46,635.37	0 Lots	12/5/1998	12/5/2008	0
J-97-120	Clay	Weston Ridge Sec. 2	Platinum Properties	9551 Delegates Row Indpls, In 46240	32	\$68,335.00	\$399.00	\$68,959.50	0 Lots	10/20/1997	10/20/2007	0
J-97-125	Clay	Williams Mill	Williams Mill LP	P.O. Box 554 Carmel, In 46032	47	\$71,734.00	\$389.00	\$69,557.00	14 Lots	11/5/1998	11/5/2008	13
J-97-179	Clay	Laurel Lakes Sec. 2	Laurel Lakes Development Corporation	P.O. Box 523 Carmel, In 46032	23	\$75,090.23	\$309.00	\$65,480.23	6 Lots	6/22/1998	6/22/2008	0
J-97-237	Clay	Bridlebourne Sec. 5A	Bridlebourne Development	8888 Keystone Crossing Indpls In 46240	7	\$39,137.50	\$399.00	\$37,541.50	5	6/15/1998	6/15/2008	2
J-97-263	Clay	Cheswick Place Sec.3	Cheswick Corporation	P.O. Box 553 Carmel, In 46032	48	\$125,431.00	\$339.00	\$117,973.00	26	7/30/1998	7/30/2008	15
J-97-301	Clay	Cheswick Place Sec.4	Cheswick Corporation	P.O. Box 553 Carmel, In 46032	5	\$11,568.50	\$339.00	\$10,660.50	3	5/29/1998	5/29/2008	0
J-98-169	Clay	Bridlebourne Sec. 5B	Bridlebourne Development	8888 Keystone Crossing Indpls In 46240	5	\$35,074.50	\$504.00	\$35,074.50	5	10/28/1999	10/28/2009	5

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J-99-293	Clay	Laurel Lakes Sec 3	Laurel Lakes Development Corporation	P.O. Box 523 Camel, In 46032	30	\$151,715.00	\$534.00	\$118,374.00	8	11/15/1999	11/15/2009	3
J-99-329	Clay	Camden Walk Sec 1	Camden Walk LLC	P.O. Box 553 Camel, In 46082	35	\$125,746.00	\$534.00	\$121,405.00	25	11/19/1999	11/19/2009	20
J-99-050	Clay	Villages of West Clay West 131st St.	Brenwick TND Communities	12821 E. Market St. Ste. 200 Camel, In 46032	9	\$272,972.50	\$534.00	\$272,972.50	9 Lots	12/22/1999	12/22/2009	9
J-99-051	Clay	Village of West Clay Sec. 10005	Brenwick Development	12821 E. Market St. Ste 200 Camel, In 46032	14	\$49,418.00	\$534.00	\$41,408.00	0 Lots	12/22/1999	12/22/2009	0
J-99-052	Clay	Village of West Clay Sec. 10006	Brenwick Development	12821 E. Market St. Ste 200 Camel, In 46032	23	\$42,025.50	\$534.00	\$40,957.50	25 Lots	12/22/1999	12/22/2009	7
J-99-054	Clay	Villages of West Clay Sec 12001	Brenwick Development	12722 Hamilton Xing Blvd Camel, In 46032	31	\$79,014.50	\$534.00	\$71,538.00	17	12/02/2000	12/02/2010	2
J-99-157	Clay	Village of West Clay Sec. 3004	Brenwick Development	12821 E. Market St. Ste 200 Camel, In 46032	8	\$235,662.00	\$534.00	\$231,433.46	7	2/18/2000	2/18/2010	2
J-99-211	Clay	Asbury Park	Asbury Park LP	P.O. Box 554 Camel, In 46082	18	\$35,416.00	\$534.00	\$26,872.00	2 Lots	5/9/2000	5/9/2010	0
J-99-212	Clay	Village of West Clay Sec. 3001	Brenwick TND Communities	12821 E. Market St. Ste. 200 Camel, In 46032	46	\$165,711.00	\$534.00	\$149,089.00	13 Lots	12/22/1999	12/22/2009	12
J-99-261	Clay	Village of West Clay 7501	Brenwick TND Communities	12821 E. Market St. Ste. 200 Camel, In 46032	48	\$97,474.50	\$534.00	\$75,192.50	25 Lots	3/13/2000	3/13/2010	5
J-99-326	Clay	High Grove	Estridge Development Co.	1041 W. Main Street Camel, In 46032	32	\$69,088.00	\$534.00	\$61,679.50	20 Lots	8/4/2000	8/4/2010	3
J-99-427	Clay	Village of West Clay Sec. 5006	Brenwick TND Communities	12821 E. Market St. Ste. 200 Camel, In 46032	38	\$57,529.00	\$534.00	\$49,451.00	21 Lots	11/9/2001	11/9/2011	18
J-99-437	Clay	Village of West Clay Sec. 10001	Brenwick TND Communities	12821 E. Market St. Ste. 200 Camel, In 46032	38	\$136,559.00	\$534.00	\$120,539.00	8 Lots	3/29/2001	3/29/2011	8
							TOTAL	\$5,197,891.83				

SCHEDULE 4(a)

Schedule of Installment Payments
of Purchase Price

See Attached.

Carmel Water Utility
Carmel, Indiana

Purchase Price Payment Schedule

	Payment Amount
Closing - May 15, 2006	\$350,000
Month 1 - June 15, 2006	165,000
Month 2 - July 15, 2006	165,000
Month 3 - August 15, 2006	165,000
Month 4 - September 15, 2006	165,000
Month 5 - October 15, 2006	165,000
Month 6 - November 15, 2006 2006	165,000
Month 7 - December 15, 2006	165,000
Month 8 - January 15, 2007	165,000
Month 9 - February 15, 2007	165,000
Month 10 - March 15, 2007	165,000
September 15, 2007	900,000
March 15, 2008	900,000
September 15, 2008	900,000
March 15, 2009	900,000
September 15, 2009	900,000
March 15, 2010	900,000
September 15, 2010	900,000
March 15, 2011	900,000
September 15, 2011	900,000
March 15, 2012	900,000
September 15, 2012	900,000
March 15, 2013	900,000
September 15, 2013	900,000
March 15, 2014	900,000
September 15, 2014	900,000
March 15, 2015	900,000
September 15, 2015	900,000
March 15, 2016	900,000
September 15, 2016	900,000
March 15, 2017	900,000
September 15, 2017	900,000
March 15, 2018	900,000
September 15, 2018	900,000
March 15, 2019	900,000
September 15, 2019	900,000
March 15, 2020	900,000
September 15, 2020	900,000
March 15, 2021	900,000
September 15, 2021	900,000
March 15, 2022	900,000
September 15, 2022	900,000
March 15, 2023	900,000
September 15, 2023	900,000
March 15, 2024	900,000
September 15, 2024	900,000
March 15, 2025	900,000
September 15, 2025	900,000
March 15, 2026	<u>900,000</u>
Total Payments	<u>\$36,200,000</u>

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SCHEDULE 6(e)

Schedule of Sample Computation of Monthly Billing and Credits

See Attached.

Carmel Water Utility

Carmel, Indiana

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Monthly Water Consumption by Carmel Water from Indianapolis Water - Period 1 of 6 FOR ILLUSTRATIVE PURPOSES ONLY

	Monthly Consumption (1)	Running Balance (2)	\$ Amount Owed to Indianapolis (3)
Period 1 Estimated Water Consumption by Acquired Area Customers of Carmel Water from Indianapolis Water (1,000 gals.)		686,000	\$0 00
Month 1	-	-	\$0 00
Month 2	-	-	\$0 00
Month 3	-	-	\$0 00
Month 4	-	-	\$0 00
Month 5	-	-	\$0 00
Month 6	58,000	628,000	\$0 00
Month 7	105,000	523,000	\$0 00
Month 8	105,000	418,000	\$0 00
Month 9	105,000	313,000	\$0 00
Month 10	105,000	208,000	\$0 00
Month 11	105,000	103,000	\$0 00
Month 12	105,000	(2,000) (4)	\$ 19,789.50
Period 1 Totals	688,000		\$19,789.50

- (1) Total of all Acquired Area Customer's Meter Readings.
- (2) Allowed Period Consumption remaining after current month's consumption.
- (3) Monthly \$ Amount Owed to Indianapolis if Carmel Consumption exceeds allowable yearly amount
- (4) Calculation of Amount Owed to Indianapolis when a portion of the Total Monthly Consumption exceeds the Period Allowable Consumption.

At 105,000 (1,000 gals) Total Month 12 Consumption

	1,000 gallons	\$ per 1,000 Gallons	\$ Amount In Block	Block Consumption
First	11 25	1.73	\$ 19.46	11 25
Next	138 75	1.69	234.49	138.75
Next	600.00	1.60	601.60	600 00
Next	3,000 00	1.09	3,001.09	3,000 00
Over	3,750 00	0.79	79,987.50	101,250.00

Monthly Amounts \$ 83,844.14 105,000.00

Total Consumed \$ 83,844 14
Total Allowed (64,054.64)

At 103,000 (1,000 gals.) Allowable Month 12 Consumption

	1,000 gallons	\$ per 1,000 Gallons	\$ Amount In Block	Block Consumption
First	11 25	1.73	\$ 19.46	11.25
Next	138.75	1.69	234.49	138.75
Next	600 00	1.60	601.60	600 00
Next	3,000 00	1.09	3,001.09	3,000 00
Over	3,750 00	0.79	60,198.00	99,250.00

Monthly Amounts \$ 64,054.64 103,000.00

Consumption that
must be paid for \$ 19,789.50

Carmel Water Utility
Carmel, Indiana

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Monthly Water Consumption by Carmel Water from Indianapolis Water - Period 2 of 6
FOR ILLUSTRATIVE PURPOSES ONLY

	<u>Monthly Consumption (1)</u>	<u>Running Balance (2)</u>	<u>\$ Amount Owed to Indianapolis (3)</u>
Period 2 Estimated Water Consumption by Acquired Area Customers of Carmel Water from Indianapolis Water (1,000 gals)		1,380,000	\$0 00
Month 1	115,000	1,265,000	\$0 00
Month 2	115,000	1,150,000	\$0 00
Month 3	115,000	1,035,000	\$0 00
Month 4	115,000	920,000	\$0 00
Month 5	115,000	805,000	\$0 00
Month 6	115,000	690,000	\$0 00
Month 7	115,000	575,000	\$0 00
Month 8	115,000	460,000	\$0 00
Month 9	115,000	345,000	\$0 00
Month 10	115,000	230,000	\$0 00
Month 11	115,000	115,000	\$0 00
Month 12	<u>120,000</u>	(5,000) (4)	<u>\$ 27,689.50</u>
Period 2 Totals	<u>1,385,000</u>		<u>\$27,689.50</u>

- (1) Total of all Acquired Area Customer's Meter Readings
 (2) Allowed Year Consumption remaining after current month's consumption
 (3) Monthly \$ Amount Owed to Indianapolis if Carmel Consumption exceeds allowable yearly amount.
 (4) Calculation of Amount Owed to Indianapolis when a portion of the Total Monthly Consumption exceeds the Annual Allowable Consumption

At 120,000 (1,000 gals) Total Month 12 Consumption

	<u>1,000 gallons</u>	<u>\$ per 1,000 Gallons</u>	<u>\$ Amount In Block</u>	<u>Block Consumption</u>
First	11 25	1 73	\$ 19.46	11 25
Next	138 75	1 69	234 49	138 75
Next	600 00	1 60	601 60	600 00
Next	3,000 00	1 09	3,001 09	3,000 00
Over	3,750 00	0 79	<u>87,887.50</u>	<u>116,250.00</u>

Monthly Amounts \$ 91,744.14 120,000.00

Total Consumed \$ 91,744 14
 Total Allowed (64,054.64)

At 115,000 (1,000 gals) Allowable Month 12 Consumption

	<u>1,000 gallons</u>	<u>\$ per 1,000 Gallons</u>	<u>\$ Amount In Block</u>	<u>Block Consumption</u>
First	11 25	1 73	\$ 19 46	11 25
Next	138 75	1 69	234 49	138 75
Next	600 00	1 60	601 60	600 00
Next	3,000 00	1 09	3,001 09	3,000 00
Over	3,750 00	0 79	<u>60,198.00</u>	<u>111,250.00</u>

Monthly Amounts \$ 64,054.64 115,000.00

Consumption that
 must be paid for \$ 27,689.50

Carmel Water Utility
Carmel, Indiana

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Monthly Water Consumption by Carmel Water from Indianapolis Water - Period 3 of 6
FOR ILLUSTRATIVE PURPOSES ONLY

	<u>Monthly Consumption (1)</u>	<u>Running Balance (2)</u>	<u>\$ Amount Owed to Indianapolis (3)</u>
Period 3 Estimated Water Consumption by Acquired Area Customers of Carmel Water from Indianapolis Water (1,000 gals.)		1,370,000	\$0 00
Month 1	115,000	1,255,000	\$0 00
Month 2	115,000	1,140,000	\$0 00
Month 3	115,000	1,025,000	\$0 00
Month 4	115,000	910,000	\$0 00
Month 5	115,000	795,000	\$0 00
Month 6	115,000	680,000	\$0 00
Month 7	115,000	565,000	\$0 00
Month 8	115,000	450,000	\$0 00
Month 9	115,000	335,000	\$0 00
Month 10	115,000	220,000	\$0 00
Month 11	115,000	105,000	\$0 00
Month 12	<u>120,000</u>	(15,000) (4)	<u>\$ 27,689.50</u>
Period 3 Totals	<u>1,385,000</u>		<u>\$27,689.50</u>

- (1) Total of all Acquired Area Customer's Meter Readings.
 (2) Allowed Year Consumption remaining after current month's consumption
 (3) Monthly \$ Amount Owed to Indianapolis if Carmel Consumption exceeds allowable yearly amount
 (4) Calculation of Amount Owed to Indianapolis when a portion of the Total Monthly Consumption exceeds the Annual Allowable Consumption

At 120,000 (1,000 gals) Total Month 12 Consumption

	<u>1,000 gallons</u>	<u>\$ per 1,000 Gallons</u>	<u>\$ Amount In Block</u>	<u>Block Consumption</u>
First	11 25	1 73	\$ 19 46	11 25
Next	138 75	1 69	234.49	138 75
Next	600 00	1 60	601 60	600 00
Next	3,000 00	1 09	3,001 09	3,000 00
Over	3,750 00	0 79	87,887.50	116,250.00

Monthly Amounts \$ 91,744.14 120,000.00

Total Consumed \$91,744 14
 Total Allowed (64,054.64)

At 105,000 (1,000 gals) Allowable Month 12 Consumption

	<u>1,000 gallons</u>	<u>\$ per 1,000 Gallons</u>	<u>\$ Amount In Block</u>	<u>Block Consumption</u>
First	11 25	1 73	\$ 19.46	11 25
Next	138 75	1 69	234 49	138.75
Next	600.00	1 60	601 60	600 00
Next	3,000.00	1 09	3,001 09	3,000 00
Over	3,750 00	0 79	60,198.00	101,250.00

Monthly Amounts \$ 64,054.64 105,000.00

Consumption that
 must be paid for. \$27,689.50

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Carmel Water Utility
Carmel, Indiana

Monthly Water Consumption by Carmel Water from Indianapolis Water - Period 4 of 6
FOR ILLUSTRATIVE PURPOSES ONLY

	<u>Monthly Consumption (1)</u>	<u>Running Balance (2)</u>	<u>\$ Amount Owed to Indianapolis (3)</u>
Period 4 Estimated Water Consumption by Acquired Area Customers of Carmel Water from		1,218,000	\$0 00
Month 1	101,500	1,116,500	\$0 00
Month 2	101,500	1,015,000	\$0.00
Month 3	101,500	913,500	\$0.00
Month 4	101,500	812,000	\$0 00
Month 5	101,500	710,500	\$0.00
Month 6	101,500	609,000	\$0.00
Month 7	101,500	507,500	\$0 00
Month 8	101,500	406,000	\$0.00
Month 9	101,500	304,500	\$0 00
Month 10	101,500	203,000	\$0 00
Month 11	101,500	101,500	\$0 00
Month 12	<u>101,500</u>	-	<u>\$0.00</u>
Period 4 Totals	<u>1,218,000</u>		<u>\$0.00</u>

- (1) Total of all Acquired Area Customer's Meter Readings.
(2) Allowed Year Consumption remaining after current month's consumption
(3) Monthly \$ Amount Owed to Indianapolis if Carmel Consumption exceeds allowable yearly amount

Carmel Water Utility
Carmel, Indiana

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Monthly Water Consumption by Carmel Water from Indianapolis Water - Period 5 of 6
FOR ILLUSTRATIVE PURPOSES ONLY

	<u>Monthly Consumption (1)</u>	<u>Running Balance (2)</u>	<u>\$ Amount Owed to Indianapolis (3)</u>
Period 5 Estimated Water Consumption by Acquired Area Customers of Carmel Water from Indianapolis Water (1,000		1,058,000	\$0 00
Month 1	100,000	958,000	\$0 00
Month 2	100,000	858,000	\$0 00
Month 3	100,000	758,000	\$0 00
Month 4	100,000	658,000	\$0 00
Month 5	100,000	558,000	\$0 00
Month 6	100,000	458,000	\$0 00
Month 7	100,000	358,000	\$0 00
Month 8	100,000	258,000	\$0 00
Month 9	100,000	158,000	\$0 00
Month 10	100,000	58,000	\$0 00
Month 11	100,000	(42,000) (4)	\$ 15,839 50
Month 12	100,000	(142,000) (5)	\$ 79,894.14
Period 5 Totals	<u>1,200,000</u>		<u>\$95,733.64</u>

- (1) Total of all Acquired Area Customer's Meter Readings
 (2) Allowed Year Consumption remaining after current month's consumption
 (3) Monthly \$ Amount Owed to Indianapolis if Carmel Consumption exceeds allowable yearly amount
 (4) Calculation of Amount Owed to Indianapolis when a portion of the Total Monthly Consumption exceeds the Annual Allowable Consumption

At 100,000 (1,000 gals) Total Month 11 Consumption

	<u>1,000 gallons</u>	<u>\$ per 1,000 Gallons</u>	<u>\$ Amount In Block</u>	<u>Block Consumption</u>
First	11 25	1 73	\$ 19 46	11 25
Next	138 75	1 69	234 49	138 75
Next	600 00	1 60	601 60	600 00
Next	3,000 00	1 09	3,001 09	3,000 00
Over	3,750 00	0 79	76,037.50	96,250.00

Monthly Amounts \$ 79,894.14 100,000.00

Total Consumed \$ 79,894 14
 Total Allowed (64,054.64)

At 58,000 (1,000 gals) Allowable Month 11 Consumption

	<u>1,000 gallons</u>	<u>\$ per 1,000 Gallons</u>	<u>\$ Amount In Block</u>	<u>Block Consumption</u>
First	11 25	1 73	\$ 19 46	11 25
Next	138 75	1 69	234 49	138 75
Next	600 00	1 60	601 60	600 00
Next	3,000 00	1 09	3,001 09	3,000 00
Over	3,750 00	0 79	60,198.00	54,250.00

Monthly Amounts \$ 64,054.64 58,000.00

Consumption that
 must be paid for \$ 15,839.50

- (5) Calculation of Amount Owed to Indianapolis when the Total Month 12 Consumption exceeds the Period Allowable Consumption

At 100,000 (1,000 gals) Consumption

	<u>1,000 gallons</u>	<u>\$ per 1,000 Gallons</u>	<u>\$ Amount In Block</u>	<u>Block Consumption</u>
First	11 25	1 73	\$ 19 46	11 25
Next	138 75	1 69	234 49	138 75
Next	600 00	1 60	601 60	600 00
Next	3,000 00	1 09	3,001 09	3,000 00
Over	3,750 00	0 79	76,037.50	96,250.00

Monthly Amounts \$ 79,894.14 100,000.00

Carmel Water Utility
Carmel, Indiana

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Monthly Water Consumption by Carmel Water from Indianapolis Water - Page 6 of 6
FOR ILLUSTRATIVE PURPOSES ONLY

	<u>Monthly Consumption (1)</u>	<u>Running Balance (2)</u>	<u>\$ Amount Owed to Indianapolis (3)</u>
Period 6 Estimated Water Consumption by Acquired Area Customers of Carmel Water from Indianapolis Water (1,000 gals)		469,000	\$0 00
Month 1	90,000	379,000	\$0 00
Month 2	90,000	289,000	\$0 00
Month 3	90,000	199,000	\$0 00
Month 4	90,000	109,000	\$0 00
Month 5	90,000	19,000	\$0 00
Month 6	45,000	(26,000) (4)	\$ 20,540 00
Month 7	-	-	\$0 00
Month 8	-	-	\$0 00
Month 9	-	-	\$0 00
Month 10	-	-	\$0 00
Month 11	-	-	\$0 00
Month 12	-	-	\$0 00
Period 6 Totals	<u>495,000</u>		<u>\$20,540.00</u>

- (1) Total of all Acquired Area Customer's Meter Readings
 (2) Allowed Period Consumption remaining after current month's consumption.
 (3) Monthly \$ Amount Owed to Indianapolis if Carmel Consumption exceeds allowable yearly amount
 (4) Calculation of Amount Owed to Indianapolis when a portion of the Total Monthly Consumption exceeds the Period Allowable Consumption

At 45,000 (1,000 gals) Total Month 6 Consumption

	<u>1,000 gallons</u>	<u>\$ per 1,000 Gallons</u>	<u>\$ Amount In Block</u>	<u>Block Consumption</u>
First	11 25	1 73	\$ 19 46	11 25
Next	138 75	1 69	234 49	138 75
Next	600 00	1 60	601 60	600 00
Next	3,000 00	1 09	3,001 09	3,000 00
Over	3,750 00	0 79	32,587 50	41,250 00

Monthly Amounts	<u>\$ 36,444.14</u>	<u>45,000.00</u>
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Total Consumed	\$ 36,444 14
Total Allowed	<u>(15,904.14)</u>

At 19,000 (1,000 gals.) Allowable Month 6 Consumption.

	<u>1,000 gallons</u>	<u>\$ per 1,000 Gallons</u>	<u>\$ Amount In Block</u>	<u>Block Consumption</u>
First	11 25	1 73	\$ 19.46	11 25
Next	138 75	1 69	234 49	138 75
Next	600 00	1 60	601 60	600 00
Next	3,000 00	1 09	3,001 09	3,000 00
Over	3,750 00	0 79	12,047 50	15,250 00

Monthly Amounts	<u>\$ 15,904.14</u>	<u>19,000.00</u>
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Consumption that must be paid for.	<u>\$ 20,540.00</u>
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Schedule 9(a)(3)

Conflicts

1. Management Agreement and any related lease

SB: 346527v1

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Schedule 9(a)(4)

Compliance

The Manager has received subpoenas from the United States Attorney requesting information relevant to water quality compliance testing and reporting. The Assistant United States Attorney assigned to the case is seeking to obtain information regarding atrazine and disinfection byproducts. Representatives of the Manager are cooperating fully with this investigation and responding in a timely manner to requests made by the Assistant United States Attorney. It is impossible to determine with certainty the actual outcome of any such legal actions, however, the Manager believes this matter will be resolved in a timely manner and will have no impact on the Management Agreement or the Manager's ability to perform its duties thereunder.

The Marion County Prosecutor has recently expressed his intent, independent of federal prosecution authorities, to determine whether the investigation revealed violations of Indiana criminal statutes.

In addition, the Indiana Department of Environmental Management conducted random sampling of the water at various locations on September 30, 2005. The results indicate that the Manager is compliant with drinking water regulations. The Manager has continually met or exceeded state and federal water quality standards since they began operating the Indianapolis Waterworks system in 2002.

Schedule 9(a)(5)

Notice

1. Federal and State Investigations

The Manager has received subpoenas from the United States Attorney requesting information relevant to water quality compliance testing and reporting. The Assistant United States Attorney assigned to the case is seeking to obtain information regarding atrazine and disinfection byproducts. Representatives of the Manager are cooperating fully with this investigation and responding in a timely manner to requests made by the Assistant United States Attorney. It is impossible to determine with certainty the actual outcome of any such legal actions, however, the Manager believes this matter will be resolved in a timely manner and will have no impact on the Management Agreement or the Manager's ability to perform its duties thereunder.

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In addition, the Indiana Department of Environmental Management conducted random sampling of the water at various locations on September 30, 2005. The results indicate that the Manager is compliant with drinking water regulations. The Manager has continually met or exceeded state and federal water quality standards since they began operating the Indianapolis Waterworks system in 2002.

2. Roger F. Edlin v. Veolia Water Indianapolis, LLC; Veolia Water North America Operating Services, Inc.; Consolidated City of Indianapolis, Marion County, Indiana; and the Department of Waterworks of the City of Indianapolis, United States District Court, Souther District of Indiana, Indianapolis Division, Cause Number 1:05-cv-1063-LJM-WTL
3. In addition the Manager estimates that it has received notice of approximately twenty (20) additional claims. The Department of Waterworks has been advised by the Manager that none of these additional claims will raise to the level of a Material Adverse Effect.

Schedule 9(a)(6)

Consents

1. Consolidated City of Indianapolis/Marion County, Indiana, Department of Waterworks Board of Directors.
2. Consolidated City of Indianapolis/Marion County, Indiana, City-County Council, including, but not limited to, any appropriate committee of the full City-County Council.
3. Mayor of the Consolidated City of Indianapolis

SB: 346537v1

Schedule 9(a)(7)

Status of Litigation

On April 29, 2005, a complaint was filed in Marion Superior Court, Civil Division, Room No. 13, in an action denominated as *The Consolidated City of Indianapolis v. NiSource Inc. and IWC Resources Corp.*, Cause No. 49D13-0504-PL-16416. The defendants in that action have not yet filed an answer or other response to the complaint but instead have filed multiple agreed motions for enlargements of time to do so, each of which has been granted. Settlement discussions between the parties are ongoing.

#346981

Schedule 9(a)(9)

Liabilities

None.

SB: 346536v1

SCHEDULE 9(b)2

Violation of Laws or Agreements (Buyer)

None.

SCHEDULE 9(b)3

Buyer Consents

1. Consent of the City of Carmel Common Council
2. Consent of the Carmel Board of Public Works

SCHEDULE 10(c)

CERTIFICATE RE: APPLICATION OF INSTALLMENT PAYMENTS

See Attached.

CERTIFICATE RE: APPLICATION OF INSTALLMENT PAYMENTS

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

I, [insert name], hereby certify that I am the duly elected or appointed, qualified and acting [insert title] of the Department (as hereinafter defined).

Pursuant to the Asset Purchase Agreement, dated _____, 2006 (the "Agreement"), by and between the Consolidated City of Indianapolis, Marion County, Indiana ("Indianapolis"), the Department of Waterworks of the Consolidated City of Indianapolis (the "Department") and the City of Carmel, Hamilton County, Indiana ("Carmel"), I further certify that:

- (a) The installment payment of the Purchase Price (as defined in the Agreement) in the amount \$_____ (the "Payment") was received from the Carmel by the Department on _____, 20__ (the "Payment Date"); and
- (b) The Payment, together with all earnings thereon (collectively, the "Disposition Proceeds"), has been fully applied to the payment of costs to acquire assets meeting the alternate use requirements of Treas. Reg. Section 1.141-12(e) as required by the Agreement ("Acquired Assets") no later than two (2) years after the Payment Date.

I further certify that the Department shall keep records that fairly and accurately describe the Acquired Assets and the dates that the Department applied the Disposition Proceeds to acquire the Acquired Assets, which records shall be made available for inspection by Carmel upon five (5) days written notice if required to support any private ruling request made as allowed by the Agreement.

IN WITNESS WHEREOF, I have hereunto set my hand on this the ____ day of _____, 20__.

[insert name, title]

SCHEDULE 10(k)

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Schedule of Accelerated Price Installment Payments

<u>Date</u>	<u>Amount</u>
08/01/11	\$17,940,000.00
01/01/12	17,524,000.00
08/01/12	17,097,000.00
01/01/13	16,659,000.00
08/01/13	16,209,000.00
01/01/14	15,746,000.00
08/01/14	15,272,000.00
01/01/15	14,784,000.00
08/01/15	14,283,000.00
01/01/16	13,769,000.00
08/01/16	13,241,000.00
01/01/17	12,698,000.00
08/01/17	12,141,000.00
01/01/18	11,569,000.00
08/01/18	10,981,000.00
01/01/19	10,378,000.00
08/01/19	9,758,000.00
01/01/20	9,121,000.00
08/01/20	8,467,000.00
01/01/21	7,796,000.00
08/01/21	7,107,000.00
01/01/22	6,398,000.00
08/01/22	5,671,000.00
01/01/23	4,924,000.00
08/01/23	4,157,000.00
01/01/24	3,370,000.00
08/01/24	2,561,000.00
01/01/25	1,730,000.00
08/01/25	876,000.00